EXECUTION COPY

HARBOR DEVELOPMENT AGREEMENT

- by and among -

CONNECTICUT PORT AUTHORITY

- and -

GATEWAY NEW LONDON LLC

- and -

NORTH EAST OFFSHORE LLC

- Dated as of –

February 11, 2020

HARBOR DEVELOPMENT AGREEMENT

THIS HARBOR DEVELOPMENT AGREEMENT (this "Harbor Development Agreement" or "Agreement") dated as of the 11th day of February, 2020 (the "Execution Date"), by and among the CONNECTICUT PORT AUTHORITY (the "Authority"), a quasi-public body corporate and politic and a political subdivision of the State of Connecticut (the "State"), GATEWAY NEW LONDON LLC ("Gateway"), a Delaware limited liability company, and NORTHEAST OFFSHORE LLC, a Delaware limited liability company ("NEO") (each a "Party" and, collectively, the "Parties").

RECITALS

(A) The Authority was created pursuant to Sections 15-31a through 15-31i of Chapter 264a of the General Statutes of Connecticut to coordinate the development of Connecticut's ports and harbors, utilizing private and public investments in partnership with the Department of Economic and Community Development and other state, local and private entities and has statutory authorization to invest in, acquire, lease, purchase, own, manage, hold and dispose of real property and lease, convey or deal in or enter into agreements with respect to such property on terms necessary or incidental to carrying out its legislative purpose;

(B) The New London State Pier Facility is located as more particularly set forth in Schedule 1 ("Site"), and is real property owned by the Authority with characteristics suitable for staging for off-shore wind development;

(C) The Authority seeks to redevelop the New London State Pier Facility into a facility that may be used, in part, as an offshore wind turbine generator ("WTG") hub through certain improvements as more particularly described on Annex B and Schedules 2, 3, and 4 attached hereto (collectively, the "Project") and enter into a long-term operations and lease agreement through a public-private partnership pursuant to the Authority's power under Chapter 264a;

(D) Gateway, a fully licensed and bonded deep-water marine terminal operator in the business of operating ports, is a party to that certain Concession Agreement with the Authority dated as of January 7, 2019 ("Concession Agreement") and desires to subcontract and operate the redeveloped site as an offshore WTG hub as the conditions to enable such operation and subcontract are met under this Agreement;

(E) NEO is an off-shore wind developer willing to provide certain funding to support the Authority's execution of the Project under the conditions set forth in this Agreement and desires to enter into a sublease agreement with Gateway for the redeveloped site;

(F) The Parties intend that the Authority, to the extent required by the terms of this Agreement, perform the Work identified herein for the development and completion of the Project;

(G) The Authority was previously entitled to receipt of the DWW Funding Commitment, all to be paid pursuant to the Connecticut Clean Energy RFP and the Connecticut Zero Carbon RFP, and such amount has been previously paid by NEO to the Authority prior to the Effective Date; and

(H) The Authority intends that the DWW Funding Commitment shall be used for Budgeted Costs pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1.

DEFINITIONS AND INTERPRETATION

1.1 **Definitions**

In this Agreement, unless the subject or context otherwise requires, capitalized terms shall have the meanings given to them in Part I of Annex A (Definitions and Rules of Interpretations).

1.2 **Annexes and Schedules**

The Annexes and Schedules to this Agreement shall form an integral part hereof and, unless otherwise stated, references to the Annexes or Schedules herein shall be construed as references to Annexes and Schedules to this Harbor Development Agreement.

1.3 **Rules of Interpretation**

Unless otherwise expressly provided herein, the rules of interpretation set forth in Part II of Annex A shall apply to this Harbor Development Agreement.

1.4 **Harbor Development Agreement**

The following documents shall form this Harbor Development Agreement:

(a) this Agreement, including its Annexes; and

(b) the Schedules.

1.5 **Conflicts**

The documents forming this Harbor Development Agreement are intended to be complementary and to describe and provide for a complete agreement. Each of the documents is an essential part of the agreement between the Parties, and a requirement occurring in one is as binding as though occurring in all; provided, however, the Parties acknowledge that the subject matter contained herein shall be subject to Section 21.1 below.

In the event of ambiguities or discrepancies, unless otherwise provided in this Harbor Development Agreement, the priority of the documents forming this Agreement (collectively, the "Project Documents") shall be as follows:

(a) any amendments to this Agreement or any of the Annexes;

(H) The Authority intends that the DWW Funding Commitment shall be used for Budgeted Costs pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1.

DEFINITIONS AND INTERPRETATION

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In this Agreement, unless the subject or context otherwise requires, capitalized terms shall have the meanings given to them in Part I of Annex A (Definitions and Rules of Interpretations).

1.2 Annexes and Schedules

The Annexes and Schedules to this Agreement shall form an integral part hereof and, unless otherwise stated, references to the Annexes or Schedules herein shall be construed as references to Annexes and Schedules to this Harbor Development Agreement.

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Unless otherwise expressly provided herein, the rules of interpretation set forth in Part II of Annex A shall apply to this Harbor Development Agreement.

1.4 Harbor Development Agreement

The following documents shall form this Harbor Development Agreement:

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The documents forming this Harbor Development Agreement are intended to be complementary and to describe and provide for a complete agreement. Each of the documents is an essential part of the agreement between the Parties, and a requirement occurring in one is as binding as though occurring in all; provided, however, the Parties acknowledge that the subject matter contained herein shall be subject to Section 21.1 below.

In the event of ambiguities or discrepancies, unless otherwise provided in this Harbor Development Agreement, the priority of the documents forming this Agreement (collectively, the "Project Documents") shall be as follows:

(a) any amendments to this Agreement or any of the Annexes;

(b) this Agreement, including its Annexes; and

(c) the Schedules.

SECTION 2.

TERM

2.1 **Term**

This Agreement shall be in full effect as of the "Effective Date", which shall mean the later of (a) the Execution Date, or (b) the date of effective transfer of title by deed to the Site from the Connecticut Department of Transportation to the Authority; and shall remain in full effect until the earlier of (a) Final Acceptance, in accordance with the terms and conditions of this Harbor Development Agreement of the Project, or (b) the date that this Agreement is terminated as provided for in Section 16 (collectively, the "Term"). In the event that the Effective Date has not occurred on or before March 11, 2020, then the Effective Date shall be deemed not to have occurred and this Agreement shall automatically terminate and be of no further force or effect.

2.2 **Time is of the Essence**

Time is of the essence of this Agreement. The Parties shall diligently, promptly and punctually perform the obligations required to be performed by each of them and fulfill the conditions applicable to each of them with respect to Project.

2.3 **Conditions to Obligations of Each Party**

Certain of the respective obligations of each of the Parties hereto are subject to certain conditions and project milestones set forth on the schedule of Project Conditions and Milestone Performance Dates ("PCMPD") attached as Schedule 2. The Parties respectively covenant and agree to use all diligent commercial efforts to achieve the conditions set forth on the PCMPD on the applicable dates.

2.4 **Project Rescoping for Failure of Conditions**

In the event that despite such diligent efforts, the Authority is unable to achieve (a) any of Items 1 (M&N Contract Amendment) through 13 (Construction Commencement) of the PCMPD within the timeframes set forth under the PCMPD, or (b) the full execution of the NECR Lease before or simultaneously with the Effective Date, then the Authority shall promptly provide written notice thereof ("Condition Failure Notice") to all Parties. The non-achievement of any such Items in the preceding sentence shall not be an Authority Event of Default.

The Parties mutually agree to promptly meet and use diligent commercial efforts to either revise the applicable deadline(s) (if the Parties can so agree to an extension) or revise this Harbor Development Agreement and the Sublease Agreement within a forty-five (45) day period after any such Condition Failure Notice to reflect an alternate scope of the Work which most nearly approximates the scale and effectiveness of the Project, but revised in light of the then available funding, affected deadlines, permits and project area; provided, further, the Parties agree that the size and location of the Site and

the length of the lease per the Sublease Agreement shall be adjusted accordingly or possibly eliminated by the Parties to accommodate the alternate scope of the Work, and provided, further, that the rent payable shall be adjusted as set forth in Section 5.2.5 (collectively, the "Rescoped Project"). The Parties agree that the minimal scale of the Rescoped Project shall be the New London project improvements required in the Deepwater Wind commitment as amended and as set forth on Schedule 2.4 hereto (the "Minimal Scope").

With respect to the Minimal Scope, the Parties agree that

(i) the aggregate revised Budgeted Costs for the Minimal Scope shall not exceed the lesser of the available funds remaining from the DWW Funding Commitment or the amount then remaining with Escrow Agent as to the DWW Funding Commitment (see Item 2 in Section 8.3);

(ii) the actual Site to be used by NEO thereunder shall be for a period of not more than two years;

(iii) the actual Site shall not include the NECR property westerly adjacent to the New London State Pier Facility;

(iv) the Sublease Agreement shall be entered into by Gateway, NEO and the Authority as set forth in Section 4.5 hereof;

(v) NEO shall

(x) in the event that NEO is utilizing the entire Site as provided for in subsection (vii) below, pay the Authority an annual rental per the Sublease Agreement for each of the two years as mutually agreed to by the Parties and to be funded from the remaining DWW Funding Commitment (see Item 2 in Section 8.3) in an amount sufficient to fully pay for all annual operating costs of the Authority during the term of the Sublease Agreement that are associated with the Minimal Scope, and in the event of such exclusive use NEO shall be required to make payments equal those due under Section 6.3 of the Sublease, and Gateway shall not be required to pay the Minimum Annual Guarantee and Annual Fixed Fee (as each are defined in the Concession Agreement) to the Authority, or

(y) to the extent that NEO is not utilizing the entire Site, pay to Gateway an annual rental payment as agreed to by the Parties, recognizing that Gateway shall be entitled to utilize the remaining portion of the Site under the Concession Agreement, and make the Minimum Annual Guarantee and Annual Fixed Fee to the Authority under the Concession Agreement;

(vi) the revised Budgeted Costs for the Minimal Scope shall establish a sufficient reserve from the DWW Funding Commitment to fully fund all contingencies should the Minimal Scope include improvements and/or rehabilitation of the Site; and

(vii) NEO shall not have exclusive use of the actual Site during such two-year period unless NEO's use requires exclusive use of the actual Site as reasonably determined by the mutual agreement of the Parties.

With respect to the Rescoped Project and the Minimal Scope, NEO shall not be allowed to fund any Excess Costs without the prior written consent of the Authority, unless otherwise so provided for in

any amendment to this Agreement entered into by the Parties for the Rescoped Project or the Minimal Scope. In no event shall the Authority be required to pay any Budgeted Costs with respect to the Minimal Scope which shall be in excess of the then available funds remaining under the DWW Funding Commitment.

If the Parties fail to reasonably agree on revisions to the Harbor Development Agreement and the Sublease Agreement to accomplish the Rescoped Project within such forty-five (45) day period, the Minimal Scope shall be the Rescoped Project as defined above.

The Parties mutually agree that notwithstanding any other provision of this Harbor Development Agreement to the contrary, any and all costs as well as lease and/or rental obligations of the Authority to be paid pursuant to that certain lease agreement by and between the Authority and the New England Central Railroad, Inc. (the "NECR Lease") shall be included in the Budgeted Costs (other than with respect to the Minimal Scope) and shall be included in the funding pursuant to Section 8.3 to be provided to Escrow Agent and reserved only for such lease and/or rental obligations pursuant to the NECR Lease and such escrowed funds allocated for such lease and/or rental obligations shall not be used for costs associated with the EPC Contractor, the Designer, any related design or construction costs, or any other costs or expenses.

2.5 **Frustration of Conditions**

None of the Parties may rely on the failure of any condition set forth on the PCMPD Schedule as an excuse for such Party's performance to the extent that a material cause of the failure of the condition to be satisfied was such Person's failure to act in good faith or comply in any material respect with any material provision of this Agreement.

SECTION 3.

THE JOINT TECHNICAL COMMITTEE AND THE JTC CHAIRPERSON

NEO, Gateway and the Authority will establish a committee to monitor the Authority's progress in completing the Work and accomplishing the milestones described in the PCMPD and PDWS ("Joint Technical Committee").

3.1 **Joint Technical Committee Responsibility**

3.1.1 The Joint Technical Committee serves as technical advisor to the Parties. The Joint Technical Committee is responsible for monitoring performance of the Work and to proactively identify and provide notice to each of NEO and the Authority as to potential critical path or performance-critical delays or obstructions that would impede the Work or otherwise delay successful completion of the Project. Notwithstanding the foregoing, any such suggestions by the Joint Technical Committee shall be non-binding on the Authority. The Joint Technical Committee shall regularly report to the Parties on the performance of the Work, including, without limitation, any delays in the Work that might impact the schedule contained in the PCMPD and PDWS.

3.1.2 Nothing in Section 3 shall be interpreted to replace, hinder, impede or reduce the Authority's responsibility or authority under Section 4 or 5 of this Agreement, as required by the terms of this Agreement, to take all actions necessary to complete the Work in a timely manner.

3.1.3 The Joint Technical Committee will have the right to suggest amendments to the PCMPD or PDWS (or provide recommendations with respect to amendments to the PCMPD or PDWS proposed by a Duly Authorized Signatory). Notwithstanding anything to the contrary contained herein, any suggested amendments to the PCMPD, or any suggested amendments to the PDWS that (i) affect the schedule of the Work; or (ii) that may affect any provisions of the PCMPD, shall not be effective unless consented to in writing by all of the Parties. The Authority shall have the right to amend the PDWS to the extent that such amendment does not affect the PCMPD and the Joint Technical Committee shall review and offer technical assistance to the Authority on any such amendment and report on any such amendment to the Parties, which may be incorporated into the regular reports referenced in Section 3.1.1 above.

3.2 **Size and Composition**

3.2.1 The Joint Technical Committee shall be comprised of at least five (5) and no more than seven (7) individuals.

3.2.2 The Joint Technical Committee shall be led by the JTC Chairperson(s), as the position is defined in Section 3.4.

3.2.3 NEO shall have a maximum of two (2) experienced project managers with major infrastructure project experience as members of the Joint Technical Committee. The initial NEO members are Jeff Martin and Matthew Cicero.

3.2.4 The Authority shall have a maximum of three (3) members of the Joint Technical Committee. The initial Authority members are Peter Simmons, Todd Lukas, and Paul Hinsch.

3.2.5 Gateway shall have one (1) member of the Joint Technical Committee. The initial Gateway member is Mark Augur.

3.3 **Committee Meetings**

3.3.1 The Joint Technical Committee will conduct weekly meetings, utilizing appropriate and available telecommunications technology, including video conferencing apps, to monitor performance to the PCMPD and PDWS.

3.3.2 The JTC Chairperson(s) shall chair all meetings and have the responsibility to set the agenda for, keep minutes of, and maintain records for the meetings. Meeting location, and whether to conduct some meetings remotely (via conference call, Skype, or other medium) shall be agreed upon by the Joint Technical Committee. For meetings of the Joint Technical Committee, the JTC Chairperson shall, at a minimum:

(a) Set the agenda for Joint Technical Committee meetings;

(b) Keep and circulate minutes for Joint Technical Committee member review and acceptance; and

(c) Upload and maintain any records, reports and other information into a data storage site accessible to all Parties.

3.4 **JTC Chairperson**

William Follett of K2 Management was retained by NEO as an external consultant to review the execution of the Project and to serve as initial chair of the Joint Technical Committee (the "JTC Chairperson"). As of the date of this Agreement, Peter Simmons from the Department of Administrative Services shall serve as a joint JTC Chairperson, along with William Follett. Each JTC Chairperson may be replaced with or without cause by the unanimous written consent of the Parties.

3.5 **JTC Chairperson Costs**

The costs of Mr. Follett as JTC co- Chairperson, including compensation, travel, and other reasonable expenses, shall be paid by NEO as part of Budgeted Costs, which payments shall be either from the Escrow Agent or paid directly by NEO, and which shall in either event count against the amounts to be contributed by NEO under Section 8 below.

3.6 **JTC Chairperson and Joint Technical Committee Responsibilities**

3.6.1 It is the JTC Chairpersons' responsibility to regularly and comprehensively apprise the Parties and the Joint Technical Committee of the progress and other aspects of the Project and the Work hereunder including achievement of Project Milestones. In addition to any periodic reports required to be provided under this Agreement, the Joint Technical Committee shall have the right to reasonably request reports from time to time from the JTC Chairpersons and the Construction Administrator related to the Work.

3.6.2 The JTC Chairpersons shall provide notice to all Parties whenever the Work corresponding to applicable lien waivers has been completed through the date corresponding to the applicable Project Milestone.

3.6.3 The Joint Technical Committee and the JTC Chairpersons shall not interfere, hinder or impede and shall use all reasonable efforts to cooperate, with the EPC Contractor and any other Subcontractor with respect to the performance of their respective duties.

3.6.4 The JTC Chairpersons performs his or her duties for the benefit of the Authority and NEO and shall represent their interests equally.

3.6.5 The JTC Chairpersons shall take directions from the Authority and NEO through the actions and decisions of the Joint Technical Committee.

3.7 **Limitations on Authority**

3.7.1 The JTC Chairpersons do not have the authority to amend the PCMPD or PDWS, but may make suggestions to the Parties to make such amendments.

3.7.2 Any suggestion or comment by the JTC Chairpersons shall not be construed to grant the EPC Contractor or any other Subcontractor any control or responsibility for any portion of the Project or the Work beyond the agreement governing their respective work nor shall any acceptance or comment by the JTC Chairpersons be construed to relieve the EPC Contractor or any other Subcontractor from the same.

3.7.3 No suggestion or comment by the JTC Chairpersons shall relieve any Party of any duties, liabilities or obligations under this Agreement and shall not deprive any Party of any rights or remedies that it may have under this Agreement or at law or in equity or otherwise.

SECTION 4.

SCOPE OF WORK AND PERFORMANCE MILESTONES

4.1 **Scope of Work**

4.1.1 The Work, as more particularly described in Annex B, the schedule for which is defined in the Project Delivery and Work Schedule attached and incorporated hereto as Schedule 3, ("PDWS"), shall include all management and administrative services, the coordination and direction of the design services, engineering, labor, materials and equipment, construction management, Permits, Regulatory Approvals, and any other items and services reasonably necessary for the site assembly, design, engineering, permitting, proper execution, and completion of improvements described in Annex B for the Phase 1 Project and the Phase 2 Project (collectively, the "Work"). It is understood that the Work shall include any reasonable and incidental actions or tasks that can reasonably be inferred as required and necessary to complete the Work.

4.1.2 NEO will have reasonable and timely review and consultation rights for selection and administration of design, engineering and construction contracts, but such rights shall not cause any delay in such selection or administration of the contracts.

4.1.3 NEO has retained Moffatt & Nichol (the "Designer") by way of a written agreement dated July 29, 2019 (the "Design Agreement") to perform all related design, architectural and engineering services and design project administration services necessary for the performance of the Work. As set forth on the PCMPD, the Parties expect to enter into an amendment and restatement of the Design Agreement reasonably satisfactory to NEO and the Authority such that: the Authority is a third party beneficiary of the Design Agreement, ownership rights of NEO as to design shall be assigned to the Authority; the Authority shall have direct control over the Designer; any and all claims, suits, disputes and controversies that NEO has with respect to the Design Agreement shall be assigned to the Authority by NEO; the Authority shall be added as an additional insured on all insurance coverage with respect to the Design Agreement; NEO cannot terminate the Design Agreement absent the express prior written approval of the Authority; and such other revisions as may be agreed by the Authority and the Designer with respect to the obligations and responsibilities set forth in the Design Agreement, which will be amended to include bid phase and construction phase services. Upon such amendment of the Design Agreement, the Authority shall have the responsibility for and control over the Designer and all architectural and engineering services for the performance and coordination of all portions of the Work, unless further specified herein. Notwithstanding such amendment of the Design Agreement, however, NEO shall continue to pay the Designer pursuant to the Design Agreement, which payments shall be included in Budgeted Costs, and which payments to the Designer shall be either from the Escrow Agent or paid directly by NEO, but which shall in either event count against the amounts to be contributed by NEO under Section 8 below.

4.1.4 NEO and the Authority, following the above amendment of the Design Agreement, shall take such actions as may be required to enforce the Design Agreement in accordance with the terms and conditions of the Design Agreement. Any reasonable third-party costs imposed upon NEO or the Authority in any such enforcement action shall be Budgeted Costs payable in accordance with the

provisions of this Agreement. Except for the gross negligence, willful misconduct or fraud on the part of NEO or the Authority, each of NEO and the Authority shall have no liability to any Party for any deficiencies of the Designer in the performance of any services provided by the Designer for the Project.

4.2 **Project Delivery and Work Schedule**

4.2.1 The PDWS provides the detailed list of tasks or activities to be performed, including but not limited to (a) all activities related to applying for Permits, including timing of permit application submittals and agency consultations; (b) all actions related to and necessary for securing Regulatory Approval, including federal congressional approval for New London Harbor Pier Section 408 de-authorization; (c) engineering, design and procurement contracts and construction contracts (and any Subcontracts), with all applicable deadlines, and (d) Gateway's mobilization and demobilization activities to relocate its pier operations away from and back to the Site.

4.2.2 The PDWS will contain sufficient detail to track the amounts of time needed to complete each task or activity, associated deadlines, and any interdependencies on other tasks or activities.

4.3 **PCMPD Dates**

4.3.1 The PCMPD identifies key Project deliverables which trigger project rescoping and other consequences as set forth herein.

4.3.2 The deadlines and milestones set forth in the PCMPD are firm and may only be modified or extended by mutual, written agreement of NEO and the Authority respectively. Certain of the deadlines of the PCMPD are subject to extension under Section 13 of this Agreement, to the extent expressly set forth on the PCMPD.

4.4 **Changes in the Work**

4.4.1 Changes or amendments to the Work, the PCMPD, or the PDWS to the extent such changes affect the PCMPD, will be made only in writing and by agreement of each Party acting by such Party's Duly Authorized Signatory.

4.5 **Phase 1 Area**

4.5.1 NEO shall have the right to sublease a portion of the State Pier pursuant to terms of the Sublease Agreement on such terms to be mutually agreed upon by Gateway, NEO and the Authority upon completion of the Phase 1 Project and as provided for in Section 2.4; provided, however, the terms of the Sublease Agreement shall in no way impair the ability and obligations of the Authority pursuant to this Agreement, including, without limitation, the ability and obligation to achieve the remaining open items on the PCMPD including completion by the Authority of the Phase 2 Project.

SECTION 5.

AUTHORITY OBLIGATIONS

The obligations and responsibilities of the Authority are as follows:

5.1 **Responsibilities for the Work**

5.1.1 With the exception of the responsibilities of NEO with respect to the Design Agreement set forth in Sections 4.1.3 and 4.1.4 of this Agreement, the Authority will bid, hire, and manage all contractors to achieve and complete the Work in a timely manner in accordance with Good Industry Practice and in conformance to any other applicable term or condition contained herein, subject to NEO fulfilling its funding obligations set forth in Section 8.1 and complying in all material respects with its covenants, agreements and obligations hereunder.

5.1.2 Subject to the provisions of this Agreement, including but not limited to Sections 2.4, 5.2 and 13.1, the Authority will achieve the Project Milestones as set forth in the PCMPD and the PDWS as may be modified or extended in accordance with the terms of this Agreement.

5.1.3 The Authority shall use its commercially reasonable efforts to secure rights to occupy and utilize the Additional Land for the Work and the operations contemplated in the Sublease Agreement as provided for in the PCMPD.

5.1.4 Except for the responsibilities of NEO with respect to the Design Agreement set forth in Sections 4.1.3 and 4.1.4 of this Agreement, the Authority will provide, or cause its contractors to provide adequate labor and personnel necessary to complete the Work and to execute any sub-contracting agreements necessary to complete the Work in accordance with the terms and conditions of this Agreement, the PCMPD, all project budgets and the PDWS.

5.1.5 The Authority will or will cause its Subcontractors, in compliance with Applicable Laws, to remove, transport and dispose of any Hazardous Substance transported onto the Site by or on behalf of the Authority or any Subcontractor, or created, used or handled as part of the Work at the Site.

5.1.6 The Authority will or will cause its Subcontractors, immediately upon the discovery of the presence of any Hazardous Substance, to undertake any and all required remediation in accordance with Applicable Laws and notify Gateway and NEO of such efforts.

5.1.7 The Authority will or will cause its Subcontractors to dispose of non-hazardous materials in accordance with Applicable Law.

5.2 **EPC Contract; Bids Exceeding Budget**

5.2.1 As specified in Section 5.1.1, the Authority is required to bid and hire the EPC Contractor to perform the Work described in the plans and specifications and other design documents prepared by the Designer. The Authority shall use commercially reasonable efforts to obtain the bids for the EPC Contractor no later than the date set forth for Item 10 (EPC Bids are too high process) on the PCMPD.

5.2.2 [Intentionally left blank.]

5.2.3 In the event that (i) the lowest qualified and responsible bid ("LQRB") exceeds the construction cost items included in the Budgeted Costs pursuant to Schedule 4 together with such contingency as is customary or reasonably necessary with respect to the Project, (see Section 7.1.8 below), such excess shall be deemed Excess Costs for purposes of Section 7.2 hereunder; and (ii) if the actual costs for the Work and the Project exceed the Budgeted Costs then such excess shall also be deemed Excess Costs for purposes of Section 7.2; and with respect to (i) and/or (ii) the Authority shall, pursuant to the provisions of Section 5.7, 8.2, 8.3, 8.4 and 14.2 hereof, pursue, but not be required to obtain, additional funding from the State for such Excess Costs through additional appropriation or bonding authority through the applicable bonding commission for such amount within fifteen (15) Business Days of receipt of the LQRB or other instances of Excess Costs.

5.2.4 In the event that the Authority is unable to obtain such additional funds or bonding authority for such Excess Costs as provided for in Section 5.2.3 above, then the Authority shall send NEO written notice of the same ("Excess Bid Costs Shortfall Notice"). Subject to the provisions of Section 15.6, NEO may agree to fund such Excess Costs only with respect to the Budgeted Costs for the Project set forth in Schedule 4, other than Budgeted Costs being determined in connection with a Rescoped Project; provided, however, in no event shall such funding by NEO under Section 5.2.3(i) above exceed $10 million without the prior written consent of the Authority ("Allowed NEO Funding"), and NEO shall be entitled to make a corresponding additional deposit to the Escrow Agent within fifteen (15) Business Days after receipt of the Excess Bid Costs Shortfall Notice. In no event shall the Alowed NEO Funding exceed $10 million without the consent of the Authority. Except for (x) an Allowed NEO Funding of less than $10 million, (y) funding by NEO under Section 5.2.3(ii) above, and (z) funding by NEO under Sections 14.2(ii)(y) and 15.2.2 below, all other funding of costs above budget by NEO shall require the consent of the Authority. If NEO does not fund such Excess Costs, then with respect to the Rescoped Project and the Minimal Scope, the Authority and NEO, pursuant to Section 2.4, shall meet and use all diligent commercial efforts to revise the scope of the Work to create a Rescoped Project under Section 2.4 hereof to comply with the actual Budgeted Costs, or to revise the Budgeted Costs for the Work to the mutual satisfaction of the Authority and NEO. Any funding by NEO as Allowed NEO Funding or in respect of costs under Section 5.2.3(ii), shall be subject to the provisions of Section 8.4.4, including, without limitation, the right to offset against future payments due on a pro-rata basis by NEO to the Authority under Section 8.1.1(c), but also subject to the Cap as set forth in Section 15.6. For clarity, neither the right of NEO to make the Allowed NEO Funding or in respect of costs under Section 5.2.3(ii), nor the right of NEO to offset the same against rent under Section 8.4.4 (subject to the Cap, as set forth in Section 15.6) shall require any consent of the Authority.

5.2.5 In the event that the Authority and NEO are able to agree on the Rescoped Project then NEO, Gateway, and the Authority shall, pursuant to the provisions of Section 2.4, meet to amend this Agreement and the Sublease Agreement accordingly, it being understood that the rent payable by NEO to the Authority under the Sublease Agreement for a Rescoped Project under this Section 5.2 shall be equitably adjusted to reflect such reduced scope.

5.2.6 In the event that the Authority, NEO, and Gateway are unable to agree on the revisions to this Agreement and the Sublease Agreement within sixty (60) days, the criteria of the Rescoped Project shall be determined pursuant to Section 2.4 hereof.

5.3 **Completion of the Work**

The Designer shall determine that the Work is complete and that payment for the applicable stage of the Work shall be made by the Escrow Agent. The Designer shall provide written notice to each Party that the Work or such project element has been completed (the "Notice of Completion") as provided for in Section 11.1.

5.4 **Work Defects; Notice and Cure**

(a) Within fifteen (15) Business Days following issuance of each Notice of Completion, NEO may notify the Authority in writing, acting in a commercially reasonable manner, that the Authority has not satisfactorily completed the portion of the Work in accordance with the applicable Project element of the PDWS or PCMPD.

(b) If NEO reasonably and in good faith determines that the Authority has not satisfactorily completed the applicable portion of the Work in accordance with Section 5.4(a) hereof, NEO shall so specify, in reasonable detail, such objection by written notice to the Authority ("Funding Objection Notice"), the reasons for NEO's determination that the Work has not been satisfactorily completed in accordance with Section 5.4(a) hereof, which notice shall include all applicable supporting documentation for such objection. The Authority shall either promptly act to correct such deficiencies so as to complete the applicable element of the Work in accordance with the PDWS or, if the Authority disagrees with such determination, initiate a dispute pursuant to Section 21 of this Agreement.

(c) To the extent that the Authority challenges the validity of any Funding Objection Notice, it shall so notify the Parties by written notice ("Funding Dispute Notice") within fifteen (15) Business Days following receipt of any Funding Objection Notice, and the disputed funding shall immediately be subject to the dispute resolution process set forth in Section 21. The Parties expressly agree that the outcomes of the dispute resolution process shall include extension of each of the PDWS and the PCMPD deadlines for the bonus set forth in Section 8.1.3 for any delay days caused by a NEO Funding Objection Notice found to be invalid by the dispute resolution process. Payments shall be made by the Escrow Agent upon the issuance of a Notice of Completion despite NEO filing a Funding Dispute Notice, provided that Escrow Agent pays such amounts from the funds deposited by the Authority with Escrow Agent after the DWW Funding Commitment funds referenced in Section 8.3 below have been disbursed by Escrow Agent. Upon the resolution of the Funding Objection Notice NEO and the Authority will jointly instruct Escrow Agent as to the correct accounting for such payment and any resulting rebalancing of the funds held by Escrow Agent on account of the resolution of said Funding Objection Notice.

(d) If NEO fails to respond to the Authority's Notice of Completion within fifteen (15) Business Days, the Work (or such portion thereof) shall be deemed to have been completed satisfactorily, in accordance with the PDWS, other than for hidden defects not reasonably ascertainable.

(e) If NEO responds objecting, in good faith based on commercially reasonable standards, to a Notice of Completion, after the Authority has corrected the deficiencies in that Project element, the Designer shall provide each Party with a new Notice of Completion.

(f) Within fifteen (15) Business Days following issuance of each Notice of Completion, if Gateway reasonably and in good faith determines that the Work referenced in the Notice of Completion (i) will materially increase the maintenance costs to be incurred by Gateway under the

Concession Agreement, or (ii) will materially increase Gateway's risk of liability for its responsibility for ongoing port operations pursuant to the Concession Agreement, or (iii) if not corrected will result in the condition of the Site not being functionally equivalent in all material respects to the Site as such existed under the Concession Agreement prior to the commencement of the Work hereunder, Gateway may so specify, in reasonable detail, such objection by written notice to the Authority and include the reasons for its determination and all applicable relevant supporting documentation; provided any such notification by Gateway shall not be an Authority Event of Default and shall not afford Gateway the privileges of the dispute resolution process set forth in Section 21 and in all such instances Gateway shall have no standing to hinder, delay, alter, suspend or stop any portion of the Work including without limitation design or construction; but, provided further, Section 16.2.6 shall apply.

5.5 **Substantial Completion and Final Acceptance**

Gateway and NEO and the Authority agree that the entire Work shall be substantially complete ("Substantial Completion") when the Work is sufficiently complete in conformity with the Contract Documents to permit NEO and Gateway to occupy or utilize the Work for its intended use.

Gateway and NEO and the Authority agree that the entire Work shall be considered to be satisfactorily completed ("Final Acceptance") when the Construction Administrator to be retained by the Authority and Designer has provided a written certification to the Parties that all of the Work has been completed in accordance with the terms and conditions of the Contract Documents. Promptly upon Final Acceptance, the Authority and NEO shall deliver written notice to the Parties confirming the Authority Project Capital Costs and the NEO Project Capital Costs, respectively. "Contract Documents" means the Agreement between the Authority and EPC Contractor, Conditions of the Contract (General Conditions, Supplementary Conditions, General Requirements and other Conditions), Drawings, Specifications, the Invitation for Bids, Instructions to Bidders, the Bid Proposal as accepted by the Authority, Order of Award, and Bonds, other documents listed in the Agreement between the Authority and EPC Contractor, and Modifications issued after the execution of the Agreement between the Authority and EPC Contractor, subject to the rights of NEO as provided for in Section 4.1.2. "Construction Administrator" shall mean a sole proprietorship, partnership, firm, corporation or other business organization or entity, under contract or employed by the Authority commissioned and/or authorized to oversee the fulfillment of all requirements of the Contract Documents.

5.6 **Transition**

5.6.1 Acting in a commercially reasonable manner after the occurrence of Substantial Completion, Gateway will diligently and expeditiously mobilize to resume control of and responsibility for ongoing port operations pursuant to the Concession Agreement and the Sublease Agreement.

5.7 **Other Responsibilities**

5.7.1 The Authority will diligently and expeditiously acting in a commercially reasonable manner apply for bonding authority from the State for its funding obligations in accordance with the provisions of Sections 5 and 8 of this Agreement, including, without limitation, requesting any Excess Costs, if any, paid by NEO pursuant to the provisions of Sections 2.4, 5.2, 8.4, 14.1 or 14.2 of this Agreement.

5.7.2 The Authority will have primary responsibility for stakeholder outreach efforts, in consultation with NEO.

5.7.3 The Authority will discharge and fulfill all its obligations under the Concession Agreement, as affected by the Sublease Agreement.

SECTION 6.

NEO OBLIGATIONS

The obligations and responsibilities of NEO are as follows:

6.1 **NEO Obligations**

6.1.1 NEO will pay all funding obligations of NEO pursuant to the terms set forth in this Agreement in a timely manner.

6.1.2 NEO will, at the express direction of the Authority, undertake to enforce the Design Agreement in accordance with the provisions of Section 4.1.4 of this Agreement.

6.1.3 Subject to the provisions of Sections 2.4, 5.2.4 and 5.2.5, NEO, the Authority, and Gateway will, immediately upon Substantial Completion, enter into the Sublease Agreement in the same form as attached hereto as Annex D ("Sublease Agreement"). In the event that: (1) the Concession Agreement has been terminated, or (2) Gateway is not the Concessionaire pursuant to the Concession Agreement, then Gateway's right and/or authority hereunder to enter into the Sublease Agreement shall terminate and be of no further force or effect; provided, however, that the Authority or any successor to Gateway, as the case may be, shall enter into the Sublease Agreement with NEO immediately upon Substantial Completion.

SECTION 7.

BUDGETED COSTS

7.1 **Budgeted Costs**

7.1.1 Subject to the provisions of Sections 2.4, 5.2, 8.2 and 8.4 hereof, the Parties acknowledge and agree that the Authority is limited by the State to the funding of Budgeted Costs.

7.1.2 The Budgeted Costs outlined in Schedule 4 reasonably reflect estimated costs associated with completing the Project as of the date of preparation of Schedule 4, including, without limitation, all Taxes.

7.1.3 Budgeted Costs outlined in Schedule 4 also include an estimate of Gateway's Wind Down Costs (see Section 9).

7.1.4 Other than as set forth in the definition of "Budgeted Costs", Budgeted Costs shall not include any of the internal costs or other indirect operating costs of any Party unless expressly stated herein (including, without limitation, as set forth in Section 15.4.1).

7.1.5 Budgeted Costs shall not include any Parties' cost arising from the development and negotiation of this Agreement or the Sublease Agreement and each Party shall pay its own Taxes (to the extent applicable) on account thereof.

7.1.6 Subject to the provisions of this Agreement, Budgeted Costs will be respectively funded to Escrow Agent by the Authority and NEO, and funded by Escrow Agent subject to the PCMPD and further subject to Section 2.4, and in accordance with progress of the PDWS and the Work as set forth in Sections 5 and 8.

7.1.7 Budgeted Costs shall not include any costs incurred by the Authority for payments or other expenses related to (i) Cross Sound Ferry, or (ii) the Additional Land, other than periodic lease/rental payments due for the Additional Land.

7.1.8 The estimated Budgeted Costs, including contingency, as of the date of this Agreement are shown on Schedule 4 and total $157 Million.

7.1.9 The Authority will use and cause the EPC Contractor to use commercially reasonable efforts to complete the Work within the Budgeted Costs, subject to the provisions of Sections 2.4, 5.2.4 and 13.1 of this Agreement, as applicable.

7.2 **Excess Costs**

Excluding fees or costs incurred by a Party as a result of such Party's breach or failure to perform under this Agreement, any other fees or costs in excess of the Budgeted Costs that are reasonably necessary to complete the Work ("Excess Costs") will be funded as set forth in Sections 2.4, 5.2, 8.4, 14.1 and 14.2, as applicable, of this Agreement. For clarity, the funding of the Variance by NEO under Section 8.1.1 (e) shall not be deemed a funding in respect of Excess Costs. Any non-funding of Excess Costs by the Authority shall not be an Authority Event of Default unless the Authority has received all funds deemed to be reasonably necessary to fully fund all Excess Costs including applicable contingency.

SECTION 8.

PROJECT FUNDING

8.1 **NEO Funding**

Subject to all the terms and conditions of this Agreement, NEO shall provide tiered funding of portions of the Budgeted Costs as further provided for in Section 8.3 below, subject to the terms and conditions set forth in this Agreement. With respect to the payments due from NEO to the Authority under Section 8.1.1(c) below, upon commencement of the Sublease Agreement NEO shall pay the Authority one (1) year's rent in advance for the first (1st) year of the Sublease Agreement, and for the second (2nd) and subsequent years of the Sublease Agreement, NEO shall, upon commencement of the Sublease Agreement, provide to the Authority a letter of credit from a financial institution and in a form reasonably acceptable to the Authority in an amount equivalent to six (6) months' rent.

8.1.1 NEO Base Case Funding

NEO shall provide a total of $70 million of funding for the Project, consisting of:

(a) $2.5 million to be due and payable to the Authority by NEO, to be funded in accordance with the funding sequence set forth in Section 8.3;

(b) $32.5 million to be funded by NEO subject to the PCMPD and in accordance with the PDWS and the funding sequence set forth in Section 8.3;

(c) $20 million of lease payments to the Authority as set forth in the Sublease Agreement, under substantially the same terms and in the same form as attached hereto as Annex D, in equal $2.0 million annual payments over the 10-year term (or the lesser amount specified under Section 5.2.5 of this Agreement for the applicable Rescoped Project), subject to any pro-rata offsets as further specified in this Agreement;

(d) $10 million to be funded by NEO in accordance with Item 5 in Section 8.3 below;

(e) $5 million to be funded by NEO in accordance with Item 8 in Section 8.3 below; provided, however, in the event the aggregate bids received pursuant to Item 10 (EPC Bids are too high) of the PCMPD would cause Budgeted Costs to be (i) greater than $157 million, then NEO shall be obligated to fund the entire $5 million; (ii) less than $152 million, then NEO shall not be obligated to fund such $5 million and NEO's funding under this Section 8.1.1(e) shall be zero; and (iii) equal to or greater than $152 million but equal to or less than $157 million (the "Variance", with the arithmetic difference between $5 million and the Variance being the "Remainder"), then NEO shall only be required to fund the amount of the Variance; and

(f) the then available portion(s) of the Remainder, if any, to be funded from time to time by NEO to the Escrow Agent within fifteen (15) days after written notice from the Authority and the Escrow Agent that a duly approved Change Order for the Work has been executed by the Authority and filed with the Escrow Agent requiring such available portion of the Remainder to be paid to the Escrow Agent.

8.1.2 [Intentionally Deleted].

8.1.3 August 2022 Contingent Delivery Funding

(a) If Substantial Completion is achieved and the Project is ready for use by NEO on or before August 12, 2022 or such other later date pursuant to Section 8.1.3(b) ("Bonus Completion Date"), NEO will fund up to an additional $10 million ($7.5 million for the benefit of the Authority and $2.5 million for the benefit of the City of New London pursuant to a Host Community Agreement that NEO anticipates entering into with the City of New London (the "Host New London Agreement")) to the Escrow Agent within sixty (60) days of the Authority's achievement of the Bonus Completion Date, as follows:

(i) In the event the aggregate bids received pursuant to Item 10 (EPC Bids are too high) of the PCMPD would cause Budgeted Costs to be greater than $157 million and contingent on NEO's payment of the full $5 million pursuant to Section 8.1.1(e)(i) above, NEO shall only be obligated to fund a bonus of an additional $5 million ($2.5 million for the benefit of the Authority and $2.5 million for the benefit of New London as per the Host New London Agreement) to be

paid by NEO to the Escrow Agent within sixty (60) days of the Authority's achievement of the Bonus Completion Date;

(ii) In the event the aggregate bids received pursuant to Item 10 (EPC Bids are too high) of the PCMPD would cause Budgeted Costs to be less than $152 million, then NEO shall be obligated to fund a bonus of $10 million ($7.5 million for the benefit of the Authority and $2.5 million for the benefit of the City of New London pursuant the Host New London Agreement), to be paid by NEO to the Escrow Agent within sixty (60) days of the Authority's achievement of the Bonus Completion Date;

(iii) In the event NEO pays the Variance as set forth in Section 8.1.1(e)(iii) above, NEO shall be obligated to fund a bonus of $10 million less the the sum of (x) the Variance paid by NEO pursuant to Section 8.1.1(e)(iii) (less any amounts thereof repaid to NEO as Savings under Section 8.5.1(a)), plus (y) all portions of the Remainder funded to the Escrow Agent (less any amounts thereof repaid to NEO as Savings under Section 8.5.1(a)), which bonus payment shall be allocated ($2.5 million for the benefit of the City of New London pursuant to the Host New London Agreement and the remainder of such funding for the benefit of the Authority).

(b) The Bonus Completion Date shall be extended due to a NEO Funding Objection Notice being found invalid as provided in Section 5.4, but shall not be extended on account of (x) Force Majeure, or (y) any notice and cure period referenced in Section 15.

8.1.4 Regular Delivery Date.

The regularly scheduled delivery date for the Project is August 31, 2022 ("Regular Delivery Date"). The Regular Delivery Date shall be subject to extension for Force Majeure under Section 13, and shall also have the benefit of any and all notice and cure periods referenced in Section 15; provided, however, the failure to achieve either Regular Delivery Date or PCMPD Item 14 (Phase 1 Substantial Completion) shall not, in either case, be an Authority Event of Default and shall instead be deemed a failure of condition under Article 14.

8.1.5 NEO Sharing of Sublease Rents.

The Sublease Agreement shall provide that NEO shall share with the Authority a portion of any fees, including without limitation, sublease fees, collected from non-affiliates for use of the Project, to the extent such fees exceed $4 million per annum ("Excess Sublease Fees"). Excess Sublease Fees shall be allocated between NEO and the Authority in proportion to the NEO Project Capital Costs and the Authority Project Capital Costs incurred by each Party, except that the $20 million of rental payments (to the extent provided over time as rent) set forth in Section 8.1.1(c) shall be excluded from NEO's total investment, except as otherwise set forth in Section 8.4.4. NEO shall reconcile such Excess Sublease Fees within ninety (90) days of the end of each year of the Sublease Agreement, and provide to the

Authority a copy of such annual reconciliation. NEO shall pay to the Authority the fees due hereunder within thirty (30) days of such annual reconciliation.

8.2 **Authority Funding**

The Authority shall deposit with the Escrow Agent (i) $25.5 million in accordance with Item 3 in Section 8.3 below; and (ii) the DWW Funding Commitment of $22.5 million in accordance with Item 2 in Section 8.3 below. The Authority shall also fund an additional $30 million as provided for in Item 4 in Section 8.3 below. The Authority further expects to (but is not obligated to so fund), directly or by and through another State of Connecticut agency, fund up to but not exceeding the additional funding pursuant to Item 7 (Additional Bonding Authority) of the PCMPD (the "CPA Bonding Action"), the PDWS and the funding sequence set forth in Item 7 in Section 8.3 below ("CPA Funding Action"). In the event that the Authority has not completed CPA Funding Action on or before the deadline set forth on the PCMPD, then the Parties shall follow the project rescoping procedures of Section 2.4 above.

8.3 **Funding Sequence**

Funding to Escrow Agent for the Work will be made by NEO and the Authority in the following sequence (but in all events after the Effective Date), and payment of the related costs thereof by Escrow Agent will be made in the following sequence as Budgeted Costs are incurred, in conformance to the PCMPD and subject to the terms and conditions contained herein:

Funding Party	Funding Amount	Funding
1. NEO	$2.5 Million	(i) NEO to fund to Authority directly the sum of $1,250,000 within 10 Business Days of the Authority funding the sum of $30 million with Escrow Agent on or before February 28, 2020 (Item 4 below); (ii)the remaining sum of $1,250,000 shall be paid by NEO to the Authority at the later of (x) when the Authority executes the construction contract for the Phase 1 Project, and (y) the Authority receives the necessary federal approvals for the federal dredging and Clean Water Act Section 408 deauthorization for the Phase 2 Project.
2. The Authority	$22.5 Million (DWW Funding Commitment)	The Authority to fund to Escrow Agent within three (3) Business Days after the Effective Date

Funding Party	Funding Amount	Funding
3. The Authority	$25.5 Million	The Authority to fund to Escrow Agent within three (3) Business Days after the Effective Date
4. The Authority	$30 Million	The Authority to Fund to Escrow Agent within 10 Business Days of receipt of funds authorized by State Bonding Commission on or before February 28, 2020 (Schedule 2, Item 4)
5. NEO	$10 Million	NEO to fund to Escrow Agent on or before Phase 2 Funding date as set forth in PCMPD (Schedule 2 Item 11)
6. NEO	$32.5 Million	NEO to fund to Escrow Agent on or before Phase 2 Funding date as set forth in PCMPD (Schedule 2 Item 11)
7. The Authority	Budgeted Costs, less $128 Million contributed by NEO and the Authority as set forth in this Section 8.3	The Authority to fund to Escrow Agent on or before Phase 2 Funding date as set forth in PCMPD (Schedule 2 Item 11)
8. NEO	$5 Million, or such portions thereof subject to the terms of Sections 8.1.1(e) and 8.1.1 (f), above	NEO to fund to Escrow Agent (i) as to the Variance, on or before Phase 2 Funding date as set forth in PCMPD (Schedule 2 Item 11), and (ii) as to the Remainder, as set forth in Section 8.1.1(f).

8.4 **Excess Costs Funding**

8.4.1 The Authority shall, be responsible for seeking, but shall not be required to obtain, the funding for any Excess Costs, whether arising under Section 5.2 or otherwise, whether from the Authority or other State sources or authorizations, the Parties agreeing and acknowledging that the Authority has no obligation to fund any Excess Costs unless the Authority has received amounts to fund such Excess Costs. In the event that the Authority has received the funding amounts set forth in Items 4 and 7 of Section 8.3 above, the Authority shall, subject to the provisions of Section 2.4, fund Excess Costs to the extent of such available funding, including, without limitation, such amounts as may be indicated for contingencies.

8.4.2 NEO shall have no responsibility for Excess Costs.

8.4.3 In all instances, the Authority will take all reasonably available actions and pursue all reasonable and necessary authority to fund Excess Costs.

8.4.4 Pursuant to the provisions of this Agreement, including the limitations set forth in Sections 2.4, 5.2.4 and 15.6, NEO may, but is not obligated, to pay Excess Costs for the Project and related Budgeted Costs set forth in Schedule 4. Amounts so paid by NEO shall not be subject to interest, and shall not be payable by the Authority unless and until the Authority receives any such additional funds or bonding authority (and only to the extent of such additional funds or bonding authority) ("CPA Excess Cost Repayment"), but shall count as part of NEO Project Capital Costs for NEO sharing of sublease rents. NEO may, at its discretion and subject to the limitations of Sections 2.4 and 15.6, apply any such monies paid for Excess Costs to future payments NEO may owe the Authority under the Sublease Agreement pursuant to Section 8.1.1(c); provided, further, the maximum amount that NEO may recover, in the aggregate, pursuant to this Section 8.4 and Section 5.2, shall not exceed the Cap as set forth in Section 15.6. The Authority may make any CPA Excess Cost Repayment at any time, at the election of the Authority, prior to the expiration of the Sublease Agreement and all such CPA Excess Cost Repayments shall reduce any remaining NEO pro-rata rent offsets.

8.5 **Cost Savings to Authority**

8.5.1 If Budgeted Costs expended through Final Completion of the Work are less than the sum of the NEO funding plus the Authority funding as set forth in Sections 8.1, 8.2, and 8.3 ("Savings"), then

(a) First, all such Savings shall be allocated to NEO until all amounts paid by NEO to the Escrow Agent in respect of the Variance and the Remainder (up to the maximum amount of $5 million) have been repaid in full; and

(b) Second all such remaining Savings shall be retained by the Authority.

8.5.2 NEO and the Authority shall identify and agree on methods to ensure that such benefits are retained solely by the Authority and not deployed to the benefit of any other Party.

8.6 **Escrow Agent Agreement**

The Escrow Agent shall hold the funds paid into escrow by the applicable Parties and make disbursements as provided for in this Agreement in accordance with the Escrow Agreement attached hereto as Annex E. Within fifteen (15) Business Days of achievement of Substantial Completion, all funds remaining with Escrow Agent in excess of the amounts required to achieve Final Acceptance (including, without limitation, amounts to pay retainage, any punch-list, the remaining Work, including, without limitation, any non-conforming Work), shall be paid by Escrow Agent to the Authority pursuant to the Escrow Agreement, upon joint instructions to be given to Escrow Agent by NEO and the Authority. Any and all interest accrued on funds held pursuant to the Escrow Agreement shall be allocated to NEO and the Authority in accordance with the aggregate funding made by each party from time to time pursuant to Section 8.3 and the payment sequences required pursuant to the terms of this Agreement. Any and all such interest so earned shall be segregated and paid by the Escrow Agent upon Final Acceptance to the applicable Party as so indicated in writing by each such Party. In no event shall interest on NEO funds be used for the Project without the written consent of NEO.

SECTION 9.

GATEWAY OBLIGATIONS

The obligations and responsibilities of Gateway are as follows:

9.1 **General Responsibilities**

9.1.1 Gateway will complete all activities necessary to mobilize and demobilize pier operations and relocate pier operations to and from the New Haven Facility, and be responsible for all associated costs, consistent with the Concession Agreement and Section 9.2.3.

9.1.2 Gateway will discharge and fulfill all other Concessionaire obligations under the Concession Agreement as affected by Schedule 5 of this Agreement.

9.2 **Pre-Redevelopment Responsibilities**

9.2.1 Gateway will take all actions necessary to wind down or otherwise modify its operations, consistent with Section 9.3 at the Site in preparation for Redevelopment.

9.2.2 Gateway will track the reasonable, actual, direct out-of-pocket costs (together with reasonable supporting documentation) incurred by Gateway in its operations during the period prior to the Redevelopment from the time of mobilization on May 1, 2019 through the preparation for construction of the Redevelopment as operations are wound-down and demobilization occurs at the Site to allow the Work, net of any revenues received by Gateway during the same period in which those costs were incurred (all collectively "Wind Down Costs"), and Gateway will utilize best efforts to minimize costs and maximize Gateway Gross Revenues during this period prior to the Redevelopment. In the event that the Authority instructs Gateway (by written notice not later than February 15, 2020) to effectuate such demobilization on or before March 31, 2020, Gateway agrees that the Wind Down Costs shall not exceed $2.5 million.

9.2.3 Gateway will use best efforts to relocate existing State Pier customers ("Existing Customers") and operations to Gateway's New Haven facility for the period of time from the commencement of construction of the Project until the occurrence of the Substantial Completion of the Work ("Redevelopment"), subject to Gateway and Existing Customers entering into appropriate agreements with such commercial terms that are acceptable to Gateway in its discretion.

9.2.4 Notwithstanding the terms of the Concession Agreement, the Gateway Minimum Variable Payments due to the Authority under the Concession Agreement shall be reduced pro rata by the number of months or portion thereof that Gateway is unable to provide the Port Services at the New London State Pier Facility as a result of the Redevelopment; and

9.2.5 Notwithstanding the terms of the Concession Agreement, a portion of the initial Gateway Fixed Payment made to the Authority pursuant to the Concession Agreement shall be refunded by the Authority to Gateway to reflect the number of months or portion thereof during the 12-month period corresponding to such initial Gateway Fixed Payment that Gateway is unable to provide the Port Services at the New London State Pier Facility as a result of the Redevelopment.

9.2.6 Payment of Wind Down Costs.

Gateway shall be reimbursed for its Wind Down Costs on a quarterly basis as part of Budgeted Costs. Gateway shall provide to the Parties a complete copy of the quarterly income and expense reports provided to the Authority under Section 10.4 of the Concession Agreement which shall outline the Wind Down Costs to the reasonable satisfaction of the Authority and NEO. The quarterly report(s) shall be retroactive as needed to cover the calendar quarter period(s) that have ended before the Effective Date. NEO and the Authority shall direct the Escrow Agent to pay the Wind Down Costs within thirty (30) days of receipt of the quarterly income and expense reports by the Authority and NEO, unless NEO or the Authority dispute the claimed Wind Down Costs. In the event that NEO and the Authority fail to direct Escrow Agent to pay the Wind Down Costs within said thirty (30) day period and do not dispute the claimed Wind Down Costs during such thirty (30) day period, Gateway shall have the right to request Escrow Agent to pay such Wind Down Costs. Notwithstanding the foregoing, NEO and the Authority agree that with respect to the payments due to Gateway for Wind Down Costs incurred during the second, third and fourth quarters of 2019 (i.e., May 1 through December 31, 2019), such payments shall be made to Gateway as promptly as feasible but in no event later than five (5) Business Days of the funding by the Authority to the Escrow Agent as provided for in Items 2 and 3 of Section 8.3 above, and NEO and the Authority acknowledge and agree that those quarterly reports were provided to NEO and the Authority prior to the Effective Date. Payment for Wind Down Costs incurred for the first quarter of 2020 (both prior to and after the Effective Date) shall be paid as provided at the beginning of this Section (i.e., within thirty (30) days of receipt of Gateway's quarterly report for the first quarter). All payments for Wind Down Costs shall be deemed to have been paid from the DWW Funding Commitment.

9.3 **Redevelopment Responsibilities**

9.3.1 Gateway will provide access to the Site for preparation for and completion of the Work in accordance with the Concession Agreement.

9.3.2 During the construction of the Work Gateway will, at the election of the EPC Contractor, either (a) vacate the property during the construction phase of the Work or (b) with the prior written approval of the Authority, remain at the Site during construction and provide services to the EPC Contractor of types and in exchange for fees to be negotiated between Gateway and the EPC Contractor and as agreed to in writing by the Authority, provided that in the event the EPC Contractor requests that Gateway remain at the Site and Gateway prudently and reasonably incurs costs that are not reimbursed by the EPC Contractor, such costs shall be treated as a Project capital expenditure and the Authority shall reimburse Gateway for such expense each month, in arrears, within thirty (30) days after invoice together with reasonable supporting documentation, provided that the Authority or NEO shall have the right to review and challenge such costs in conformance with Section 21.

9.3.3 As provided for in the Sublease Agreement, the portion of Gateway's payment obligations to the Authority under the Concession Agreement after Redevelopment begins, including, without limitation, Gateway's obligation to make the Gateway Minimum Variable Payments or the Gateway Fixed Payment, shall be suspended.

9.4 **Other Responsibilities**

9.4.1 Gateway will, upon Substantial Completion of the Project, assume control of the Site for the purpose of operating and maintaining port operations as set forth in the Concession Agreement and the Sublease Agreement.

9.4.2 Gateway's obligations under the Concession Agreement will be suspended or modified as provided in the Sublease Agreement.

9.4.3 During the Term of this Agreement, Gateway and the Authority agree that the Concession Agreement shall be deemed amended as provided for in Schedule 5.

SECTION 10.

NO PERSONAL OBLIGATION

No obligation, debt, or liability set forth in this Harbor Development Agreement is a personal obligation of any member, trustee, partner, director, officer, official, or shareholder of any Party, or any direct or indirect constituent entity of any Party or any Party's affiliates or agents. No Party shall seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Harbor Development Agreement or otherwise.

SECTION 11.

PAYMENTS

11.1 **Payments**

11.1.1 On the 15th day of each month during the Project, the Authority shall prepare and distribute to NEO a disbursement request in the Form of (Schedule 7) ("Disbursement Request") certifying the progress of the Project against the PDWS and the achievement of any Project Milestone to be submitted to the Escrow Agent.

11.1.2 Each Disbursement Request will identify which of the Work elements has been completed and shall certify the accuracy of the specific information contained therein as of the date of each Disbursement Request:

(a) whether or not, to the Authority's actual knowledge, there is an Authority Event of Default;

(b) whether or not, to Authority's actual knowledge, there is a NEO Event of Default;

(c) that the Project remains lien free in all respects;

(d) if the Project schedule pursuant to the Contract Documents will not reasonably be fulfilled in all material respects, the EPC Contractor, through the Construction Administrator, shall provide an updated and revised construction schedule for the Work demonstrating a recovery plan to ensure Substantial Completion of the Work in accordance with the PCMCD or PDWS, as such may be extended or amended in accordance with this Agreement;

(e) that the budget line items remain in balance and on track with the budget and Budgeted Costs, or include rebalancing/additional funding corrective measures; and

(f) that the Authority has not, to the Authority's actual knowledge, received notice of cancellation of any of the insurance policies required of the EPC Contractor.

11.1.3 The Authority shall, within fifteen (15) days after distribution of a Disbursement Request, provide such Disbursement Request to the Escrow Agent to disburse the full funding amount corresponding to the specified persons identified in the Disbursement Request or such other depository as the Authority shall designate in the Disbursement Request, subject to the provisions of Section 5.4(c).

11.2 **Currency**

All disbursements by or to a Party shall be denominated and collected in United States Dollars.

SECTION 12.

REPRESENTATIONS AND WARRANTIES

12.1 **The Authority**

The Authority hereby represents and warrants, as of the Effective Date, that:

12.1.1 The Authority has the power and authority to enter into this Harbor Development Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by the Authority in accordance with the terms hereof.

12.1.2 This Harbor Development Agreement and the other Project Agreements to which it is a party have been duly executed by the Authority and are legally valid and binding upon the Authority.

12.1.3 No consent is required to be obtained by the Authority from, and no notice or filing is required to be given by the Authority to or made by the Authority with, any Person (including any Relevant Authority) in connection with the execution and delivery by the Authority of this Harbor Development Agreement or the consummation of the transactions contemplated hereby, except for such consents that have been obtained and notices of filings that have been given as of the Effective Date or such other consents that are not required to be obtained as at the Effective Date and are expected to be obtainable following the Effective Date.

12.1.4 The Authority or its designees are or will be the holder of all governmental consents, Permits and other authorizations required to fulfill its obligations as contemplated by this Harbor Development Agreement.

12.1.5 The Authority has or will have all necessary rights in respect of the Site and the Project in order to undertake the activities contemplated herein.

12.1.6 The execution and delivery of this Harbor Development Agreement by the Authority, the consummation of the transactions contemplated hereby and the performance by the Authority of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Authority under (a) any Applicable Law, (b) any material agreement, instrument or

document to which the Authority is a party or by which it is bound or (c) the enabling legislation, articles, bylaws or governing documents of the Authority.

12.1.7 After making due inquiries, the Authority has no actual knowledge of any proceedings, actions or claims, pending or threatened, against or otherwise involving the Authority that would have a Material Adverse Effect on the Authority's ability to fulfill its respective obligations under this Harbor Development Agreement or the other Project Agreements to which it is a party.

12.2 **NEO**

NEO hereby represents and warrants, as of the Effective Date, that:

12.2.1 It is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of NEO's organization and duly qualified to conduct business in the State.

12.2.2 NEO has the power and authority to enter into this Harbor Development Agreement and the NEO Design Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder and thereunder to be done, observed or performed by NEO in accordance with the terms hereof and thereof.

12.2.3 NEO has not incurred and does not intend to incur debts beyond its ability to pay such debts as they become due (whether at maturity or otherwise).

12.2.4 This Harbor Development Agreement and the other Project Agreements to which NEO is a party have been duly executed by NEO, are legally valid and binding upon NEO and do not require any further approval or consent or registration in any form in order to give full force and effect thereto.

12.2.5 The execution and delivery of this Harbor Development Agreement by NEO, the consummation of the transactions contemplated hereby and the performance by NEO of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of NEO under (a) any Applicable Law, (b) any material agreement, instrument or document to which NEO is a party or by which it is bound or (c) the articles, bylaws or governing documents of NEO.

12.2.6 No consent is required to be obtained by NEO, and no notice or filing is required to be given by NEO to or made by NEO with, any Person (including any Relevant Authority) in connection with the execution and delivery by NEO of this Harbor Development Agreement or the consummation of the transactions contemplated hereby, except for such consents that have been obtained and notices of filings that have been given as of the Effective Date or such other consents that are not required to be obtained as at the Effective Date and are expected to be obtainable following the Effective Date.

12.2.7 NEO is in material compliance with all Applicable Laws related to its obligations under this Harbor Development Agreement. After making due inquiries, NEO has no actual knowledge of any proceedings, actions or claims, pending or threatened, against or otherwise involving NEO that would have a Material Adverse Effect on NEO's ability to fulfill its respective obligations under this Harbor Development Agreement or the other Project Agreements to which it is a party.

12.3 **Gateway**

Gateway hereby represents and warrants, as of the Effective Date, that:

12.3.1 It is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of Gateway's organization and duly qualified to conduct business in the State.

12.3.2 Gateway has the power and authority to enter into this Harbor Development Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by Gateway in accordance with the terms hereof.

12.3.3 This Harbor Development Agreement and the other Project Agreements to which Gateway is a party have been duly executed by Gateway, are legally valid and binding upon Gateway, and do not require any further approval or consent or registration in any form in order to give full force and effect thereto.

12.3.4 The execution and delivery of this Harbor Development Agreement by Gateway, the consummation of the transactions contemplated hereby and the performance by Gateway of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of Gateway under (a) any Applicable Law, (b) any material agreement, instrument or document to which Gateway is a party or by which it is bound or (c) the articles, bylaws or governing documents of Gateway.

12.3.5 No consent is required to be obtained by Gateway from, and no notice or filing is required to be given by Gateway to or made by Gateway with, any Person (including any Relevant Authority) in connection with the execution and delivery by Gateway of this Harbor Development Agreement or the consummation of the transactions contemplated hereby, except for such consents that have been obtained and notices of filings that have been given as of the Effective Date or such other consents that are not required to be obtained as at the Effective Date and are expected to be obtainable following the Effective Date.

12.3.6 Gateway is in material compliance with all Applicable Laws related to its obligations under this Harbor Development Agreement. There is no action, suit or proceeding, at law or in equity, or before or by any Relevant Authority, pending nor, to the best of Gateway's knowledge, threatened against Gateway, that would have a Material Adverse Effect on (a) the transactions contemplated by this Harbor Development Agreement or (b) the validity or enforceability of this Harbor Development Agreement.

12.3.7 After making due inquiries, Gateway has no actual knowledge of any proceedings, actions or claims, pending or threatened, against or otherwise involving Gateway that would have a Material Adverse Effect on Gateway's ability to fulfill its respective obligations under this Harbor Development Agreement and the other Project Agreements to which it is a party.

SECTION 13.

FORCE MAJEURE

13.1 Force Majeure

"Force Majeure" means (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies; (ii) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war; (iii) riot, commotion, disorder, strike or lockout by Persons not a Party to this Harbor Development Agreement; (iv) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the use of such munitions, explosives, radiation or radio-activity by a Party, its Affiliates, Employees or Subcontractors; (v) acts of god (such as extreme weather, tornado, flood, hurricane or natural catastrophes such as earthquake and volcanic activity), in each case only to the extent such event or circumstance is an exceptional event or circumstance; (vi) changes to existing laws, codes or regulations governing construction of the Project that have a material adverse impact on the Project; and, in each case,

(a) which is beyond the control of the Party seeking to invoke Force Majeure; and

(b) which such Party could not reasonably have avoided, prevented or overcome through the exercise of due diligence; and

(c) which is not substantially attributable to such Party.

Without limiting the generality of the foregoing, for purposes of this Harbor Development Agreement, the term "Force Majeure" *excludes*: (A) the Authority's failure to procure and secure the Permits necessary to complete the Work or additional funds to cover amounts to be funded by the Authority under Sections 8.2 or 8.4, (B) changes in financial markets or market conditions generally, (C) events or circumstances within the conditions required to be designed against or provided for in accordance with this Harbor Development Agreement, (D) the occurrence of any shortages of manpower or supplies; or (E) any delay, default or failure (direct or indirect) in obtaining supplies, or of any Subcontractor or worker performing any work or any other delay, default or failure (financial or otherwise) of a Subcontractor, vendor or supplier, and (F) change orders to the LQRB as a result of design errors or omissions.

Notwithstanding the above, an event of Force Majeure shall not apply to (i) the failure of the Authority to obtain the Permits, and (ii) the obligation of NEO to make the payments set forth in Section 8.1.3. For clarity, Force Majeure shall in no event apply to the events on Schedule 2 marked "no" in the column labelled "Extend for Force Majeure?".

13.2 Notice of Force Majeure

If any Party hereto is affected by an event of Force Majeure as defined in Section 13.1, it shall give notice within five (5) Business Days of the occurrence thereof to the other Parties. The affected Party shall likewise immediately notify the other Parties within five (5) Business Days when the event of Force Majeure has ceased.

13.3 **Excuse of Performance**

13.3.1 Should an event of Force Majeure prevent the total or partial performance of any of the obligations of either Party under this Agreement, then the Party claiming the event of Force Majeure shall be excused from whatever performance is prevented thereby to the extent so affected on a day for day basis (such that the date of such performance shall be extended for each day of the Force Majeure event) and the other Party shall not be entitled to terminate this Agreement except as otherwise provided herein. The Party claiming the event of Force Majeure shall use commercially reasonable efforts to continue to perform its obligations hereunder.

13.3.2 No Party shall claim damages, penalties, interest or any other compensation from any other Party due to the occurrence of an event of Force Majeure.

13.3.3 Should an event of Force Majeure, standing alone, along with the day for day extension set forth in Section 13.3.1 above, render the deadlines of the PCMPD and/or PDWS impossible or impracticable, then the Parties covenant and agree to attempt to reach a mutually agreeable adjustment thereof pursuant to Section 21.

13.3.4 The foregoing provisions of this Section 13 shall not, however, excuse or release the Party claiming Force Majeure from obligations due or performable, or compliance required, under this Harbor Development Agreement prior to the above-mentioned failures or delays in performance due to the occurrence of Force Majeure or obligations not affected by the event of Force Majeure. Unless this Harbor Development Agreement shall have been terminated pursuant to Section 16, a Party excused from performance by the occurrence of Force Majeure shall continue its performance under this Harbor Development Agreement when the effects of the event of Force Majeure are removed.

SECTION 14.

NON-ACHIEVEMENT OF PROJECT MILESTONES OR FAILURE OF CONDITION

14.1 **Non-Achievement of Project Milestone or Failure of Condition Before the Later of Award and Commencement of Construction Contract or Receipt of Phase 2 Permits**

In the event that the Authority is unable to achieve any of Items 1 (M&N Contract Amendment) through 13 (Construction Commencement) of the PCMPD, prior to the later of (i) Item 12 (Construction Contract Executed by CPA) or (ii) Item 8 (Phase 2 Permits Issued), the later of such events being the "Rescoping Deadline", then the Authority shall notify NEO and the Parties shall proceed with project rescoping under Section 2.4. Such non-achievement of any of such Items as set forth in the preceding sentence shall not be an Authority Event of Default. In the event that NEO funds Excess Costs as provided for in Sections 5.2 or 8.4, but subject to the limitations of Sections 2.4 and 5.2.4, then NEO shall have the right, subject to the Authority consent requirements expressly set forth in such sections, to offset the amounts paid by NEO pro-rata against future amounts owed by NEO to the Authority as set forth in Section 8.1.1(c), which amounts are subject to the provisions of Section 15.6. Except as set forth in Section 5.2.4, in no event shall any Authority consent be required with respect to any of (i) the Allowed NEO Funding, (ii) funding in respect of Section 5.2.3(ii), or (iii) funding by NEO under Sections 14.2(ii)(y) or 15.2.2 below. In the event that construction and/or the Project is halted by actions of a third party occurring not less than two (2) weeks after the Phase 1 Project construction has commenced,

such actions shall be deemed to have occurred before the Rescoping Deadline for the purposes of the Authority timely issuing a project rescoping notice.

14.2 **Failure to Achieve Project Milestone After The Later of Award and Commencement of Construction Contracts or Receipt of Phase 2 Permits**

In the event that the Authority does not achieve an item on the PCMPD after the Rescoping Deadline (and, in instances of non-achievement arising out of Excess Costs, neither NEO nor the Authority consents to fund any Excess Costs with respect to such item), then, after the expiration of any applicable grace periods under Section 15, the Parties shall meet in person with all required decision makers within ten (10) Business Days and use all diligent commercial efforts to resolve the failure to achieve such PCMPD Item. Without limiting the foregoing and notwithstanding the right under subsection (ii)(x) hereof of NEO to the MAE damages, such non-achievement of an item on the PCMPD as it applies to both the non-achievement of the date for Phase 1 Substantial Completion (Item 14 of the PCMPD) or delivery of the Phase 2 Project after the Rescoping Deadline, after the expiration of any applicable grace periods under Section 15, shall not be an Authority Event of Default. Upon the expiration of ten (10) Business Days following the Parties' meeting to resolve such failed PCMPD Item, NEO may, in its commercially reasonable discretion, alternatively:

(i) terminate this Harbor Development Agreement and the Sublease Agreement upon written notification to the other Parties, or

(ii) waive its right to terminate with respect to such failed PCMPD Item, provided that

(x) any material and adverse economic impact ("MAE") to NEO shall be subject to Section 15.6 and, at NEO's election, offset pro-rata against future amounts, if any, owed by NEO to the Authority as set forth in Section 8.1.1(c) which amounts are subject to the limitations as set forth in Section 15.6; provided, further, however, (a) NEO shall not offset any MAE unless and until NEO has provided to the Authority reasonable supporting evidence supporting both the existence of the MAE and quantifying same, and (b) any MAE claim applicable to the non-achievement of the date for Phase 1 Substantial Completion (Item 14 of the PCMPD) after the expiration of any applicable grace periods under Section 15 shall in no event exceed $5 million; and

(y) NEO shall further have the right, but not the obligation, to, on behalf of the Authority, (a) make any payments due and payable, whether to the Authority's EPC Contractor or otherwise; and (b) provide any resource, material, or labor reasonably required to complete the Work in accordance with the PCMPD and PDWS as promptly as feasible, and to offset pro-rata the same against future amounts owed by NEO to the Authority as set forth in Section 8.1.1(c) which amounts shall be subject to the limitations of Section 15.6 and, to the extent then applicable, to Sections 2.4, 5.2.4 and 5.2.5.

NEO's waiver of its right to terminate this Harbor Development Agreement with respect to the Authority's failure to achieve a Project Milestone or failure to pay unfunded Excess Costs in one instance under this Section 14.2 should not be construed as a blanket waiver applicable to any future failure by the Authority to achieve a Project Milestone under this Section.

Should NEO pursue any remedy set forth in this Section 14.2, (i) NEO will not seek to recover prior funds disbursed pursuant to Section 8.1, and (ii) such amounts shall not exceed the Cap and shall be subject to Sections 2.4, 5.2.4, 8.4 and 15.6.

Notwithstanding the foregoing, if the PCMPD Item not achieved is solely the timely achievement of the Bonus Completion Date set forth in Section 8.1.3, the sole consequence shall be the Authority's lost opportunity to collect the Bonus Completion Date payment and such non-achievement of the Bonus Completion Date shall not be an Authority Event of Default.

In the event that construction is halted by actions of a third party occurring not less than two (2) weeks after the Phase 1 Project construction has commenced, such actions shall be deemed to have occurred before the Rescoping Deadline for the purposes of the Authority timely issuing a project rescoping notice; provided, however, such non-achievement(s) shall not be an Authority Event of Default, and NEO and the Authority shall be subject to the provisions of Section 2.4.

14.3 **Effect of Force Majeure.** Certain PCMPD Items are subject to extension for Force Majeure, as defined in Section 13, as indicated on the PCMPD schedule. For such PCMPD Items, the applicable deadline shall be extended without penalty for the duration of the applicable Force Majeure event, and the remedies set forth in this Section 14 will not apply until such extension expires.

SECTION 15.

EVENTS OF DEFAULT; REMEDIES

15.1 Default by the Authority

A material breach or default with respect to the Authority's performance of any material obligation under this Harbor Development Agreement and such breach continues uncured for a period of sixty (60) days shall be deemed an event of default by the Authority (an "Authority Event of Default"). The (i) the non-achievement of Items in the PCMPD as referenced in Sections 2.4, 5.2, 8.1.4 and 14.1; (ii) the non-achievement of the Regular Delivery Date and/or the date for Phase 1 Substantial Completion (Item 14 of the PCMPD); or (iii) the inability of the Authority to fund costs and expenses in excess of the Budgeted Costs as referenced in Sections 5.2 and 8.4, shall not be deemed to be an Authority Event of Default hereunder.

15.2 NEO Remedies for Authority Event of Default

15.2.1 If any Authority Event of Default occurs and has not been cured by the Authority within the sixty (60) day period specified in Section 15.1 above, the Authority shall have an additional five (5) day cure period within which the Authority shall be required to use its reasonable efforts to remedy the applicable Authority Event of Default.

15.2.2 If the Authority does not cure such Authority Event of Default under Section 15.2.1 within such five (5) day period or does not commence and diligently pursue reasonable steps to remedy such Authority Event of Default during such five (5) day period, NEO has the right, but not the obligation, to, subject to the limitations of Sections 2.4, 5.2.4 and 5.2.5, on behalf of the Authority:

(i) to make any payments due and payable whether to the EPC Contractor or otherwise; and

(ii) provide any resource, material, or labor reasonably required to complete the Work in accordance with the PCMPD or PDWS as promptly as feasible in light of the Authority Event of Default.

In the event that NEO does not undertake to take the above-referenced actions on behalf of the Authority, NEO shall have the right to terminate this Agreement. NEO's right under this Section 15.2.2 vests immediately on the next day after the end of the applicable cure period. NEO is not required to provide further notice to the Authority.

Subject to the provisions of Sections 2.4, 5.2.4, 5.2.5, 14.1, 14.2 and 15.6 hereof, NEO will promptly, after the Authority Event of Default has ceased, calculate and notify the Authority, in writing, of the actual amounts paid or any actual expenses incurred by NEO on behalf of the Authority under this Section; provided, however, such costs shall not include any of NEO's internal costs or other indirect operating costs. Such amount shall be reimbursed by the Authority to NEO, without interest, within ninety (90) days after written demand therefor. Pursuant to the provisions of Section 14.2 and 14.3, in the event that the Authority does not remit payment, upon demand, within (90) days, NEO may at NEO's sole discretion, apply monies owed by the Authority to future payments NEO may owe the Authority under the Sublease Agreement as referenced in Section 8.1.1(c), provided, however, in no event may NEO recover Expenses or other amounts from the Authority which exceed the Cap.

15.2.3 NEO may exercise any of its other rights and remedies provided for hereunder or at law or equity.

15.3 **Default by NEO**

The occurrence of any of the following events shall be deemed an event of default by NEO (a "NEO Event of Default"):

15.3.1 NEO files a petition for bankruptcy, insolvency, or voluntarily commences any proceeding or files any petition seeking liquidation, winding up, reorganization, moratorium, arrangement, composition or other similar relief under Applicable Law;

15.3.2 An involuntary proceeding is commenced or an involuntary petition is filed seeking an adjudication of NEO as bankrupt or insolvent, or seeking liquidation, winding up, reorganization, moratorium, arrangement, composition or other similar relief under Applicable Law in respect of NEO or any substantial part of its property and is not stated or dismissed within 120 days;

15.3.3 Any representation or warranty of NEO contained in this Harbor Development Agreement or any other document delivered by NEO in connection with this Harbor Development

Agreement or the selection process proves to have been false, inaccurate or misleading in any material respect when made, and such breach continues uncured for a continuous period of ninety (90) days; or

15.3.4 NEO commits a material breach or default with respect to its performance of any obligation under this Harbor Development Agreement and such breach continues uncured for a period of sixty (60) days.

15.4 **Remedies of the Authority upon NEO Event of Default**

Upon the occurrence and during the continuance of a NEO Event of Default, the Authority may, by notice to NEO, declare NEO to be in default and may do any or all of the following as the Authority, in its discretion, shall determine:

15.4.1 The Authority may give written notice to NEO requiring NEO to use its reasonable efforts to remedy the NEO Event of Default within a period of time prescribed by the Authority, which shall not exceed ten (10) days in the case of NEO's failure to discharge its funding obligation when due, and which shall not exceed sixty (60) days in all other cases, from the receipt of such notice and which shall take into account the nature of the breach. If such NEO Event of Default is not remedied by NEO by the expiration of the specified period, or NEO fails to pursue reasonable steps to remedy such NEO Event of Default by the expiration of the specified period, the Authority shall have the right to (i) terminate this Harbor Development Agreement and Sublease Agreement by notice in writing to NEO and to Gateway, and such termination will be effective as of the date of delivery of such notice; and (ii) waive its right to terminate with respect to such NEO Event of Default, provided that any adverse economic impact to the Authority, including without limitation, any increases to Excess Costs shall be paid by NEO to the Authority.

The Authority will promptly, after the NEO Event of Default has ceased, calculate and notify NEO, in writing, of the cumulative adverse economic impact of NEO's Event of Default to the Authority, including any actual amounts paid or any actual expenses incurred by the Authority on behalf of NEO under this Section; provided, however, such costs shall include the Authority's reasonable internal costs or other indirect operating costs including without limitation costs incurred by the Authority with respect to the costs related to assistance rendered to the Authority for this Project by each of OPM, DAS and DOT. Such amount shall be reimbursed by NEO to the Authority, without interest within ninety (90) days after written demand therefor or, at the Authority's sole discretion, be used to offset future amounts owed by the Authority to NEO under this Harbor Development Agreement.

15.4.2 The Authority may exercise any of its other rights and remedies provided for hereunder or at law or equity.

The Authority waiver of its right to terminate this Harbor Development Agreement and Sublease Agreement with respect to one NEO Event of Default under this Section 15 should not be construed as a blanket waiver applicable to any future NEO Event of Default under this Section.

Notwithstanding anything to the contrary contained herein, following a NEO Event of Default, NEO shall have a sixty (60) day cure period (commencing five (5) days after NEO's receipt of written notice of such NEO Event of Default) within which NEO shall be required to use its reasonable efforts to remedy the applicable Event of Default; provided, however, following the expiration of such 60-day period, the Authority's right under this Section 15 shall vest immediately on the next day after the end of such 60-day period. The Authority is not required to provide further notice to NEO.

15.5 **Gateway Defaults and Remedies**

15.5.1 The occurrence of any of the following events shall be deemed an event of default by Gateway (a "Gateway Event of Default"): (a) a material breach or default by Gateway with respect to its performance under this Agreement and such breach continues uncured for a period of sixty (60) days; and (b) any Concessionaire Event of Default referenced in the Concession Agreement.

15.5.2 Upon the occurrence and continuation of a Gateway Event of Default, the Authority shall have the right to terminate the provisions of this Agreement that relate to Gateway and to require that Gateway cease operations at the Site that impact the Work and any additional or alternative remedy afforded to the Authority upon a Concessionaire Event of Default under the Concession Agreement, consistent with Concession Agreement Section 15.2.

15.5.3 In the event that there is a default in the payment of the Wind Down Costs under Section 9.2.6 of this Agreement, then Gateway shall have the rights and remedies afforded to it under Section 15.4 of the Concession Agreement.

15.6 **Limitation on Liability**

15.6.1 Notwithstanding any other provision of this Harbor Development Agreement, the Parties acknowledge that it is in their mutual interests to limit their liability to each other, and expressly bargain for and agree that neither Party shall be liable to the other Party under this Harbor Development Agreement for punitive, remote, indirect, special, consequential, expectation, ongoing, future or speculative damages, lost profits or any contingent liability (it being understood that such contingent liability, if it becomes actual, is subject to the exclusions under this Section 15.6).

15.6.2 In all cases, the liability of any Party is limited to its interest in the Site or in any bond, letter of credit, or insurance coverage purchased for the benefit of any Party's activities, obligations, liabilities, or debts with respect to the Project (collectively, the "Coverages"), except that to the extent that there exists a gap in insurance coverages required of NEO under the terms of Section 17 below, NEO shall be liable for any Expenses to the Authority not covered by insurance and for which NEO is responsible under the terms of this Agreement in a total aggregate amount not to exceed the (1) amount of the Coverages, plus (2) $20 million. Notwithstanding any other provision of this Agreement, the ability of NEO and Gateway, individually or in the aggregate, to recover Expenses, an MAE, Excess Costs, amounts owed by the Authority pursuant to Section 14.2(ii)(y), or any other amounts due and owing by the Authority pursuant to this Agreement, the Sublease Agreement, or any of the other agreements and documents entered into in connection therewith (collectively, "Claims") (i) shall be limited to solely (x) the right of offset against the amounts owed by NEO to the Authority, if any, as set forth in Section 8.1.1(c), and (y) recovery of the Savings allocable to NEO under Section 8.5; and (ii) in no event may NEO and Gateway, individually or in the aggregate, recover Claims against the Authority which exceed (1) an aggregate of $5 million for MAE Claims with respect to the Phase 1 Project; (2) an aggregate of $10 million with respect to the Allowed NEO Funding; and (3) for collectively the Phase 2 Project, the Rescoped Project and the Minimal Scope, in the aggregate, together with the MAE, if any, claimed pursuant to the foregoing subsection (ii)(1) for the Phase 1 Project, and together with the Allowed NEO Funding, if any, claimed pursuant to the foregoing subsection (ii)(2), an aggregate of $20 million (the "Cap"). In no event may the Authority recover Expenses or any other amounts from NEO and Gateway, in the aggregate, which exceed in the aggregate $20 million. For clarity, the Cap in favor of the Authority shall apply whether the claim(s) arise under Section 5.2.4, 9.2.6, 14.1, 14.2, any other

provision hereof, or any combination of such claims. In any event of any permitted transfer or permitted assignment by any Party of all or any portion of its rights and obligations hereunder, such transfer or assignment shall be effected pursuant to a written agreement whereby the transferee is responsible for all applicable obligations or liabilities under this Agreement arising from and after the date of assignment. Nothing in the foregoing shall limit the right of Gateway to make claims for Wind Down Costs in accordance with the provisions of Section 9.2.6.

SECTION 16.
TERMINATION

16.1 **Termination**

This Harbor Development Agreement may be terminated as follows:

(a) By agreement of the Parties in writing;

(b) By NEO in its sole discretion in accordance with the provisions of Sections 14.2 of this Agreement;

(c) By NEO, following the occurrence of an Authority Event of Default in accordance with the terms of Section 15.2.2; or.

(d) By the Authority, following the occurrence of a NEO Event of Default in accordance with the terms of Section 15.4.1.

Any Party seeking to terminate this Harbor Development Agreement before the completion of the Project must notify the other Parties, in writing, of such termination.

16.2 **Effect of Termination**

On the early termination of this Harbor Development Agreement for whatever reason:

16.2.1 This Harbor Development Agreement (except for Sections 17.1, 17.2, and 17.3 that by their terms survive the termination of this Harbor Development Agreement) shall cease to have effect, subject to all rights and obligations of the Parties existing prior to such termination;

16.2.2 NEO will not seek a refund of funding already disbursed, provided, however, that NEO shall be entitled to receive the balance of any funds paid by NEO to Escrow Agent that remain undisbursed by Escrow Agent;

16.2.3 NEO shall have no further obligation to disburse monies to the Authority beyond those funds already disbursed by Escrow Agent; except that if this Harbor Development Agreement is terminated arising from Section 14.2, Escrow Agent shall first pay to the Authority the balance of any DWW Funding Commitment not yet disbursed.

16.2.4 Gateway shall be entitled to the payment of any Wind Down Costs from the Escrow Agent that remain to be paid upon the date of such termination as provided for in this Agreement.

Gateway and the Authority shall also have all rights and remedies as may be provided for in the Concession Agreement and the Sublease Agreement.

16.2.5 Any reimbursement payable by the Authority to NEO, on the one hand, or by NEO to the Authority on the other hand, if any, shall be deemed a debt due and payable in Dollars, and shall be paid by the applicable Party, without interest thereon into one or more bank accounts designated by such Party for such purpose, on or before the date which shall be the later of: (a) the date which shall be ninety (90) days after the date on which this Harbor Development Agreement terminates, and (b) if either Party shall dispute such termination by the other Party, the date which shall be ninety (90) days after a final determination is made in accordance with Section 21 hereof.

16.2.6 If the Authority turns the Site back to Gateway and Gateway reasonably and in good faith affirmatively demonstrates through relevant supporting documentation, as determined by a national or regional third-party independent professional firm with expertise in the engineering, management and construction of port infrastructure, that the condition of the Site is not functionally equivalent in all material respects to the Site as such existed under the Concession Agreement prior to the commencement of the Work hereunder, or other circumstances set forth in Section 5.4(f) exist, then both the Authority or Gateway, in their respective sole discretion, has the option of terminating the Concession Agreement.

16.3 **Exclusivity**

16.3.1 Except as otherwise expressly provided for herein, including without limitation Section 2.4, NEO shall have exclusive rights to utilize the Site for its offshore wind activities under the terms and conditions set forth in this Harbor Development Agreement and the Sublease Agreement. In periods where NEO is not utilizing the Site, Gateway and NEO will collaborate to remarket the facility to other customers, including other offshore wind developers as further provided for in the Sublease Agreement. Such actions will encompass the following conditions:

(a) Gateway and NEO will prioritize remarketing to other offshore wind developers;

(b) Gateway and NEO will establish the sublease fee payable from other customers who desire to lease all or a portion of the facilities during a period when NEO is not using the Site as a hub for offshore wind turbine generator purposes (such period, an "Idle Period");

(c) Any sublease fee paid by other customers during an Idle Period will be payable to NEO;

(d) As set forth in Section 8.1.5 above, sublease fees collected by NEO from other customers in excess of $4 million per year will be shared with the Authority proportional to the Authority Project Capital Costs and the NEO Project Capital Costs incurred by each Party; and

(e) Any such remarketing of the use of the State Pier shall be done in consultation and collaboration with the Authority.

For the purposes of this Section 16.3.1, during any Active Period NEO shall be deemed to be utilizing the Site, unless any additional use of the Site proposed by the Authority is both (i) compliant with then applicable best industry practices for offshore WTG assembly ports, and (ii) consistent with all contracting and warranty preservation requirements of NEO and its suppliers during such Active Period.

16.3.2 During the Term and while the Project is under construction, the Authority shall with 72 hours prior notice, except in the case of an emergency, have the full right and authority to take any action (or fail to take any action to prevent) that are (i) in the interests of public health and safety, (ii) as are in compliance with Applicable Laws, and (iii) as required by Applicable Laws; provided that any interference with the rights of Gateway are limited as set forth in the Concession Agreement.

16.3.3 During the period of construction pursuant to the terms of this Agreement, the Authority shall permit each of NEO and Gateway to enter the Site at such times and as often as may be necessary for purposes of the Work. To the extent that either NEO or Gateway exercises its access rights pursuant to this Section 16.3.3 and subject to Applicable Law, NEO and/or Gateway, as applicable, shall (i) provide the Parties with reasonable prior notice under the circumstances, (ii) agree to schedule such access at a time that is reasonably convenient to the Authority, and in any instance at such time that will minimize interference and will not cause a material and adverse impact on the Work or with any operations then being conducted on the Site, and (iii) strictly abide by any safety and operational requirement of the Site at the instruction of the Authority's agents or employees working at the Site.

SECTION 17.

INDEMNIFICATION

17.1 **Indemnification by the Authority**

The Authority shall, to the extent allowed by Applicable Law and subject to the provisions of Section 15.6 hereof, indemnify and hold harmless (i) NEO and its Affiliates and the respective directors, officers, agents and employees of NEO and its Affiliates (NEO and each such entity or person, being a "NEO Indemnified Person") and (ii) Gateway and its Affiliates and the respective directors, officers, agents and employees of Gateway and its Affiliates (Gateway and each such entity or person, being a "Gateway Indemnified Person") from and against all third party personal injury or property losses, claims, damages judgments, assessments, costs, reasonable attorneys' or consultants' fees and other liabilities but excluding any punitive, remote, consequential or speculative damages (collectively, "Expenses"), whether or not in connection with pending or threatened litigation and whether or not any NEO Indemnified Person or Gateway Indemnified Person is a party, to the proportionate extent arising out of or resulting from the Authority's (a) performance of the Work; (b) negligence or willful misconduct in relation to this Harbor Development Agreement; or (c) breach of this Harbor Development Agreement or breach of the Sublease Agreement. The indemnity obligations of the Authority set forth herein shall apply to any modification of this Harbor Development Agreement and shall remain in full force and effect regardless of any termination of, or the completion of services under or in connection with this Harbor Development Agreement.

17.2 **Indemnification by NEO**

NEO shall, subject to the provisions of Section 15.6 hereof, indemnify and hold harmless (i) Gateway Indemnified Persons and (ii) the Authority and its Affiliates and the respective directors, officers, officials, agents and employees of the Authority and its Affiliates (the Authority and each such entity or person, being an "Authority Indemnified Person") from and against all Expenses, whether or not in connection with pending or threatened litigation and whether or not any Gateway Indemnified Person or Authority Indemnified Person is a party, to the proportionate extent arising out of or resulting

from NEO's (a) negligence or willful misconduct in relation to this Harbor Development Agreement; or (b) breach of this Harbor Development Agreement, or breach of the Sublease Agreement. The indemnity obligations of NEO set forth herein shall apply to any modification of this Harbor Development Agreement and shall remain in full force and effect regardless of any termination of, or the completion of services under or in connection with this Harbor Development Agreement.

17.3 **Indemnification by Gateway**

Gateway shall, subject to the provisions of Section 15.6 hereof, indemnify and hold harmless (i) NEO Indemnified Persons and (ii) the Authority Indemnified Persons from and against all Expenses, whether or not in connection with pending or threatened litigation and whether or not any NEO Indemnified Person or Authority Indemnified Person is a party, to the proportionate extent arising out of or resulting from Gateway's (a) negligence or willful misconduct in relation to this Harbor Development Agreement; or (b) breach of this Harbor Development Agreement or breach of the Sublease Agreement. The indemnity obligations of Gateway set forth herein shall apply to any modification of this Harbor Development Agreement and shall remain in full force and effect regardless of any termination of, or the completion of services under or in connection with this Harbor Development Agreement, or breach of the Sublease Agreement.

17.4 **Injured Employees**

The indemnification obligations under this Section 17 shall apply, without limitation, to all matters involving injured employees of the Authority, NEO or Gateway or any supplier or Subcontractor of any tier, regardless of any provisions of the applicable Workers' Compensation laws, and in particular regardless of the exclusive remedy and/or employees' immunity provisions of those laws, all of which are hereby expressly waived.

17.5 **Procedures**

17.5.1 If an Indemnified Party receives notice of any claim or the commencement of any suit, action, claim, proceeding or investigation brought by any Person other than an Indemnifying Party and with respect to which an Indemnifying Party is obligated to provide indemnification pursuant to this Harbor Development Agreement, the Indemnified Party shall, within ten (10) Business Days thereafter, give the Indemnifying Party written notice (an "**Indemnification Notice**") thereof which sets forth in reasonable detail such information with respect to such suit, action, claim, proceeding or investigation as the Indemnified Party shall then have, but the failure to give an Indemnification Notice to the Indemnifying Party shall not relieve the Indemnifying Party of any liability that it may have to the Indemnified Party except to the extent that the Indemnifying Party shall have been materially prejudiced in its ability to defend the suit, action, claim, proceeding or investigation for which such indemnification is sought.

17.5.2 Upon receipt of an Indemnification Notice, the Indemnifying Party shall be entitled at its option and at its cost and expense to assume the defense of such suit, action, claim, proceeding or investigation with respect to which it is called upon to indemnify an Indemnified Party pursuant to this Section 17; *provided, however*, that (i) the Indemnifying Party notifies the Indemnified Party of its intention to assume such defense within thirty (30) days after the Indemnified Party gives the Indemnifying Party the relevant Indemnification Notice; and (ii) such Party may only assume control of such defense if (A) such Indemnifying Party acknowledges in writing that any Expenses that may be assessed against the Indemnified Party constitutes Expenses for which the Indemnified Party shall be

indemnified pursuant to this Agreement and (B) the *ad damnum* is less than or equal to the amount of Expenses for which the Indemnifying Party is liable under this Agreement. If the Indemnifying Party elects to assume the defense of such suit, action, claim, proceeding or investigation, as the case may be, the Indemnifying Party shall retain counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party shall have the right to employ its own counsel in any such suit, action, claim, proceeding or investigation, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party.

17.5.3 If the Indemnifying Party elects to assume the defense of any suit, action, claim, proceeding or investigation for which it is called upon to indemnify the Indemnified Party pursuant to this Section 17, the Indemnifying Party shall not settle or compromise such suit, action, claim, proceeding or investigation without the prior written consent of the Indemnified Party unless there is no finding or admission of any violation of law by the Indemnified Party, and the sole relief provided is monetary damages covered in full by the indemnity.

17.5.4 The Indemnifying Party agrees to keep the Indemnified Party reasonably informed of the events of any applicable suit, action, claim, proceeding or investigation. If requested by the Indemnifying Party, the Indemnified Party shall co-operate to the extent reasonably requested in the defense or prosecution of any suit, action, claim, proceeding or investigation for which such Indemnifying Party is called upon to indemnify the Indemnified Party pursuant to this Section 17.

17.5.5 The amount of any Expenses indemnifiable pursuant to this Section 17 shall be reduced by (a) the value of any benefit (other than any insurance benefit or proceeds) realized, directly or indirectly, in any jurisdiction by the Indemnified Party as a result of such Expenses; and (b) the amount of any insurance proceeds received by the Indemnified Party in respect of such Expenses. If such proceeds are received by the Indemnified Party following an indemnifying payment in respect of the relevant Expenses, the Indemnified Party shall pay to the Indemnifying Party an amount equal to the lesser of (i) the amount of such proceeds and (ii) the amount of the indemnifying payment made by the Indemnifying Party.

17.5.6 No amount shall be payable by any Indemnifying Party pursuant to this Section 17 in respect of consequential damages, including any loss of profit, revenue or opportunity or punitive damages; *provided, however*, that an Indemnifying Party may be liable under this Section 17 for all actual payments reasonably made by the other Party to third parties or reasonable out-of-pocket and documented costs or expenses actually suffered or incurred by such other Party in respect of third-party claims.

17.5.7 No Indemnified Party shall be entitled to be indemnified more than once under this Harbor Development Agreement for the same Expense.

SECTION 18.

INSURANCE

18.1 Authority's Insurance Requirements

18.1.1 Except as may be otherwise specified in Schedule 6 hereto, the Authority shall obtain and maintain, or cause to be obtained and maintained, in full force and effect, the types and amounts of

insurance set forth in Schedule 6 at all times while the Authority or any Subcontractor is performing the Work during the Term of this Agreement. Gateway and NEO shall not unreasonably withhold or delay consent to commercially reasonable adjustments to Schedule 6 requested by the Authority.

18.1.2 The Authority shall not act and shall prevent its Subcontractor's from acting in any manner that would void any of the Authority's Insurances.

18.1.3 On request of NEO and Gateway, the Authority will provide certificates of insurance and additional insured endorsements for any insurance policy required under Schedule 6.

18.1.4 On request of NEO or Gateway, the Authority shall provide copies of any insurance policies to each of NEO and Gateway, as applicable, following a claim or notice of potential claim to which the policy may reasonably be believed to afford coverage to NEO and/or Gateway, as applicable, as an additional insured.

18.1.5 The Authority shall provide at least thirty (30) days prior written notice to NEO and its designees of any cancellation.

18.2 **Gateway's Insurance Requirements**

Gateway shall obtain and maintain, or cause to be obtained and maintained, in full force and effect, the types and amounts of insurance set forth in the Concession Agreement as it may be modified in the Sublease Agreement.

18.3 **Waiver of Subrogation**

The Parties waive any right of action that they or their insurance carriers might have against each other (including their respective representatives) for any Expense to the extent that such Expense is covered by any insurance policy or policies maintained, or required to be maintained pursuant to this Harbor Development Agreement, and to the extent that such proceeds (which proceeds are free and clear of any interest of third parties) are received by the Party claiming the Expense. If any of the Authority's applicable insurance policies do not allow the insured to waive the insurer's rights of subrogation prior to a Expense, the Authority shall cause it to be endorsed with a waiver of subrogation that allows the waivers of subrogation required by this Section 18.3.

SECTION 19.

[INTENTIONALLY OMITTED]

SECTION 20.

ASSIGNMENTS AND TRANSFERS

This Harbor Development Agreement shall be binding upon, and inure to the benefit of, the Authority, NEO, Gateway and their permitted successors and assigns.

20.1 **Assignment by NEO**

NEO may with the prior written consent of the Authority and Gateway, which consents shall not be unreasonably withheld, conditioned or delayed, assign or transfer (a) this Harbor Development Agreement or any other agreement executed in connection with the Project to which it is a party, (b) any of its rights or obligations hereunder, or (c) any of its assets, provided that the assignee expressly assumes all of the NEO obligations under the Project Documents that arise on or after the assignment date and provides written notice of such assignment to Gateway and the Authority; provided, however, NEO shall provide the Authority and Gateway with reasonable supporting evidence showing that such assignee is (i) experienced in the operation of WTG assembly facilities, (ii) financially able to fulfill all of NEO's obligations hereunder, and (iii) is equal to or greater than NEO in its financial ability to fulfill all of NEO's obligations hereunder.

Notwithstanding the foregoing, NEO shall have the right without the consent of (but with notice to) the Authority and Gateway to assign or transfer this Harbor Development Agreement and/or the rights and obligations thereunder, to an entity controlled by, under common control with, controlling, or affiliated with NEO. A transfer of or new issue of member interests within NEO shall not be considered an assignment.

20.2 **Assignment by the Authority**

The Authority may with the prior written consent of NEO and Gateway, which consents shall not be unreasonably withheld, conditioned or delayed, assign or transfer (a) this Harbor Development Agreement or any other agreement executed in connection with the Project to which it is a party, or (b) any of its rights or obligations hereunder, or (c) any of its assets, provided that the assignee expressly assumes all of the Authority obligations under the Project Documents that arise on or after the assignment date and provides written notice of such assignment to Gateway and NEO; provided, however, the Authority shall provide NEO and Gateway with reasonable supporting evidence showing that such assignee, if such assignee is a private non-governmental entity, is (i) experienced in the operation of WTG assembly facilities, (ii) financially able to fulfill all of the Authority's obligations hereunder, and (iii) is equal to or greater than the Authority in its financial ability to fulfill all of the Authority's obligations hereunder.

Notwithstanding the foregoing, the Authority shall have the right without the consent of (but with notice to) NEO and Gateway to assign or transfer all or a part of its rights and obligations hereunder, to any successor entity or government body which succeeds to its functions, which such successor entity shall be bound by the terms and conditions of this Harbor Development Agreement. The Authority shall use its commercially reasonable efforts to give notice of any such assignment not later than thirty (30) days prior to such assignment.

20.3 **Assignment by Gateway**

Gateway may not assign or transfer this Harbor Development Agreement or any of its rights or obligations hereunder, except (i) with the consent of the Authority in conformance with the rights and conditions to assignment set forth in the Concession Agreement; and (ii) with the consent of NEO, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, Gateway shall have the right without the consent of (but with notice to) the Authority and NEO to assign or transfer this Harbor Development Agreement and/or the rights and obligations thereunder, to an

entity controlled by, under common control with, controlling, or affiliated with Gateway. A transfer of or new issue of member interests within Gateway shall not be considered an assignment hereunder.

SECTION 21.

RESOLUTION OF DISPUTES

21.1 **Scope**

Any dispute arising out of, relating to, or in connection with this Harbor Development Agreement, including any question as to whether such dispute is subject to arbitration, shall be resolved as set forth in this Section 21.

21.2 **Informal Dispute Resolution Procedures**

The Parties shall attempt in good faith to resolve such dispute within fifteen (15) days following receipt by the other Party of notice of such dispute. If the Parties are unable to resolve the dispute within such fifteen-day period, and upon notice by either Party to the other, the dispute shall be referred to the Designated Senior Person of each Party. The Designated Senior Persons shall negotiate in good faith to resolve the dispute in the next following ten (10) day period, conferring as often as they deem reasonably necessary. Statements made by representatives of the Parties during the dispute resolution procedures set forth in this Section 21.2 and documents specifically prepared for such dispute resolution procedures shall be considered part of settlement negotiations and shall not be admissible as evidence in any arbitration or other litigation proceeding between the Parties without the mutual consent of the Parties.

21.3 **Arbitration**

If the procedures described in Section 21.2 do not result in resolution of the dispute within an aggregate thirty (30) day period (or as may be extended by mutual agreement following input from a Designated Senior Person from each Party) then

(a) The Party seeking resolution of a dispute shall give written notice to the other Party, setting forth the matters in dispute with particularity. If the Parties shall not have resolved such dispute within ten (10) days of written notice of the dispute, then either Party may submit the dispute for non-binding mediation in accordance with the Commercial Mediation Rules of the American Arbitration Association then in effect (the "Mediation"). Each Party shall have a senior management officer present during the Mediation. Any finding, award or testimony from such Mediation shall be inadmissible in any Court proceeding or action of the Parties pursuant to Section 21.5. If any dispute is not resolved by Mediation within ten (10) days of initiation of Mediation then

(b) the dispute shall be referred to non-binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then in effect (the "AAA Rules"). Any Party may initiate the arbitration, as provided in the AAA Rules. The place of arbitration shall be Hartford, Connecticut unless the Parties agree otherwise. The arbitral panel shall determine the rights and obligations of the Parties in accordance with the substantive laws of the State and without regard to conflicts of laws principles thereof. Except as agreed by the Parties, the arbitral panel shall have no power to alter or modify any terms or provisions of this Harbor Development Agreement, or to render

any award that, by its terms or effects, would alter or modify any term or provision of this Harbor Development Agreement. The arbitral panel shall be composed of three arbitrators who have been licensed to practice law in the State for at least ten (10) years, one to be selected by the Authority, one to be selected by the NEO and with the third to be selected by the first two, unless Gateway is a party to the Arbitration in which case the third is to be selected by Gateway. Once the arbitral panel has been composed, the arbitrators shall act as neutrals and not as party arbitrators, and no Party shall engage in any *ex parte* communication with any member of the arbitral panel. Each Party shall bear its own attorney fees, expenses, and costs. If the dispute arises under Section 5.4, the award shall specify any delay days caused by an improper Funding Objection Notice. The award shall not include interest. The award shall be in writing and state the reasons upon which it is based. The Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*, shall govern any arbitration conducted pursuant to this Section 21.2. Any finding, award or testimony from such arbitration shall be inadmissible in any court proceeding or action of the Parties pursuant to Section 21.5.

21.4 **Submission to Jurisdiction and Jury Waiver**

EACH PARTY (A) SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING IN THE STATE OF CONNECTICUT IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, AND (B) WAIVES ANY CLAIM OF INCONVENIENT FORUM OR OTHER CHALLENGE TO VENUE IN SUCH COURT IN ANY SUCH ACTION OR PROCEEDING. EACH PARTY AGREES TO ACCEPT SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER INITIAL PLEADING MADE IN THE MANNER PROVIDED FOR THE GIVING OF NOTICES IN SECTION 24.1, PROVIDED THAT NOTHING IN THIS SECTION 21.4 SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVE SUCH SUMMONS, COMPLAINT OR OTHER INITIAL PLEADING IN ANY OTHER MANNER PERMITTED BY LAW. PROCESS IN ANY ACTION OR PROCEEDING REFERRED TO IN THE PRECEDING SENTENCE MAY BE SERVED ON ANY PARTY ANYWHERE IN THE WORLD.

21.5 **Provisional Remedies**

No Party shall be precluded from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy to protect its rights that may be necessary and that is not otherwise available under this Harbor Development Agreement, including temporary and preliminary injunctive relief and restraining orders and the appointment of a receiver or receiver and manager in connection with the collection and retention of any income, costs or expenses provided for in this Agreement.

SECTION 22.

GOVERNING LAW; SUBMISSION TO JURISDICTION

The rights and obligations of the Parties under or pursuant to this Harbor Development Agreement shall be governed by and construed in accordance with the laws of the State, without giving effect to any provision that would result in the application of the laws of another jurisdiction. Without prejudice to the provisions of Section 21, each Party hereby irrevocably and unconditionally submits, for itself and its property, to the sole and exclusive jurisdiction of the state and federal courts within the State and any appellate court from any thereof, in any legal action, suit or proceeding arising out of or relating to this Harbor Development Agreement.

SECTION 23.

MISCELLANEOUS

23.1 Entire Agreement

This Harbor Development Agreement and the other Project Agreements constitute the entire agreement between the Parties in relation to the subject matter hereof and supersede any or all previous agreements or arrangements, whether oral or written, among the Parties in respect of the subject matter hereof.

23.2 Confidentiality

Each Party shall, to the extent allowed by Applicable Law, keep in confidence all drawings, records, data, books, reports, documents and information, whether technical, commercial or financial in nature, supplied to it by or on behalf of another Party relating to the Project that are designated as confidential by the applicable Party and shall, to the extent allowed by Applicable Law, not disclose the same in any manner other than for the purpose of raising financing for the Project (whether by way of debt or equity), for the purpose of performing its obligations hereunder, or as it may necessarily be required to disclose pursuant to Applicable Laws or orders of appropriate Relevant Authorities. The provisions of this Section 23.2 shall, for the avoidance of doubt, supersede all confidentiality provisions contained in any prior agreement between the Parties.

23.3 Variations in Writing

Any and all additions, amendments and variations to this Harbor Development Agreement shall be binding only if in writing and signed by Duly Authorized Signatories of each of the Parties.

23.4 Time and Indulgence

23.4.1 No waiver by either Party of any default by the other in the performance of any of the provisions of this Harbor Development Agreement: (a) shall operate or be construed as a waiver of any other or further default whether of a like or different character; or (b) shall be effective unless in writing by a Party's Duly Authorized Signatory.

23.4.2 The failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Harbor Development Agreement or time or other indulgence granted by one Party to the other shall not thereby act as a waiver of such breach or acceptance of any variation.

23.4.3 Any time or other indulgence allowed by one Party to the other in which to perform its duties and obligations hereunder or to remedy any breach hereof shall not be, and shall not be construed as, a waiver by the Party giving such time or indulgence of any of its rights hereunder. Any such time or indulgence or waiver may be on and subject to such terms and conditions as the Party giving it may specify and shall be without prejudice to that Party's then accrued rights except to the extent expressly varied in such time, indulgence or waiver.

23.5 **No Third Party Beneficiaries**

This Harbor Development Agreement is made exclusively for the benefit of the Parties and no third party shall have any rights hereunder or be deemed to be a beneficiary hereof, except as may be expressly provided herein.

23.6 **Severability**

If any provision of this Harbor Development Agreement is or becomes wholly or partly invalid, illegal, or unenforceable: (a) the validity, legality and enforceability of the remaining provisions shall continue in force unaffected; and (b) the Parties shall meet as soon as possible and negotiate in good faith upon a replacement provision that is legally valid and that as nearly as possible achieves the objectives of this Harbor Development Agreement and produces an equivalent economic effect.

A replacement provision shall apply as of the date that the replaced provision has become invalid, illegal or unenforceable. If the Parties cannot reach agreement in good faith, any Party may invoke the dispute resolution procedure of Section 21 hereof.

23.7 **No Sovereign Immunity**

To the extent applicable and to the extent allowed by Applicable Law, the Authority waives sovereign immunity and consents to any claim, action, or arbitration brought or initiated by a Party to this Harbor Development Agreement to enforce any debt, liability, or obligation accruing to the Authority as a result of the obligations set forth herein.

SECTION 24.

NOTICES

24.1 **Address for Notices**

Any notice or communication to be given under or in connection with this Harbor Development Agreement shall be given in writing and shall either be delivered personally or sent by registered mail or internationally recognized overnight courier, or by email with proof of delivery. The addresses for service of the Parties shall be those provided below, or such other address as any Party may notify in writing to the other Parties for this purpose.

To NEO:	c/o Orsted North America, Inc. 100 International Place 100 Oliver Street, Suite 2610 Boston, MA 02110 Attn: Charles R. Scott
with copies to:	Eversource Energy Service Company 56 Prospect Street Hartford, CT 06103 Attn: Wind Project Director

	Eversource Energy Service Company 800 Boylston Street, 17th Floor Boston, MA 02199 Attn: Deputy General Counsel
	Orsted A/S Kraftvaerksvej 53 DK-7000 Fredericia Denmark Attn: General Counsel Anders Zoega Hansen
	Pierce Atwood, LLP 100 Summer Street Boston, MA 02110 Attn: Richard S. Novak, Esq.
to Gateway	Enstructure New Haven Holdings LLC 400 Waterfront Street New Haven, CT 06512
with copies to:	Enstructure LLC 16 Laurel Avenue, Suite 300 Wellesley, MA 02481
	Phelps Dunbar, L.L.P. 365 Canal Street, Suite 2000 New Orleans, LA 70130-6534 Attn: James A. Stuckey, Esq.
To the Authority:	Connecticut Port Authority 455 Boston Post Road, Suite 204 Old Saybrook, CT 06475 Attn: Executive Director
with copies to:	Robinson & Cole LLP 280 Trumbull Street Hartford, CT 06103 Attn: Glenn A. Santoro, Esq.
	Director of Legal Affairs Office of the Secretary State of Connecticut Office of Policy and Management 450 Capitol Avenue Hartford, CT 06106-1379

	Legal Director Office of Legal Affairs, Policy & Procurement Department of Administrative Services 450 Columbus Boulevard, Suite 1307 Hartford, CT 06103

24.2 **Deemed Service**

A notice shall be deemed to have been duly serviced as follows: (a) if personally delivered, at the time of receiving; (b) if sent by registered mail, on the third Business Day following the date of posting; (c) if sent by internationally recognized overnight courier, upon receipt of confirmation of delivery, and (d) if sent by email upon proof of delivery.

In providing such service it shall be sufficient to prove that personal delivery was made or that the letter was properly addressed and dispatched.

24.3 **Change of Address**

Either Party may change a nominated address to another address by prior notice to the other Party.

24.4 **Counterparts; Facsimile Execution**

This Harbor Development Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Harbor Development Agreement shall be effective when it has been executed by each Party and delivered to all Parties. To evidence the fact that it has executed this Harbor Development Agreement, a Party may send a copy of its executed counterpart by electronic transmission. Such Party shall be deemed to have executed and delivered this Harbor Development Agreement on the date it sent such electronic transmission. In such event, such Party shall forthwith deliver an original counterpart of this Harbor Development Agreement executed by such Party.

SECTION 25.

JOINT PREPARATION

All Parties have participated equally and freely in negotiating and drafting this Harbor Development Agreement, with the advice of legal counsel selected by it. The Parties acknowledge and agree that any rule of construction that a document is to be construed against the drafting Party shall not be applicable to this Harbor Development Agreement.

SECTION 26.

CONTRACTING REQUIREMENTS

In accordance with the operating procedures of the Authority, Gateway and NEO shall comply with the applicable procurement and contracting requirements as set forth on Schedule 8 attached

hereto. Such requirements shall not apply to any actions taken in accordance with the provisions of Sections 4.1.3 and 4.1.4 with respect to the Designer and the Design Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Harbor Development Agreement has been executed by duly authorized representatives of the Parties hereto as of the day, month and year first above written.

Gateway New London LLC

By: _____
Name: Matthew Satnick
Title: Authorized Representative

North East Offshore LLC

By: _____
Authorized Person

By: _____
Authorized Person

Connecticut Port Authority

By: _____
Name: David Kooris
Title: Chairperson

ANNEXES

A Definitions
B Scope of Work
C Concession Agreement
D Form of Sublease Agreement
E Form of Escrow Agreement

SCHEDULES

1 The Site
2 Project Conditions and Milestone Performance Dates (PCMPD)
2.4 Minimal Scope
3 PDWS (Project Delivery and Work Schedule)
4 Budgeted Costs
5 Amendments to Concession Agreement
6 Authority Insurance
7 Form of Disbursement Request
8 CPA Contracting Requirements

Exhibits to Schedule 8
A- SEEC Form
B – Affidavit re: Nondiscrimination
C- Affidavit re: Consulting Fees
D- Contractor's Certification re: Gifts
E - Chairperson's Certification re: Gifts
F- CHRO Notification to Bidders
G- Iran Certification Form
H – Affirmation of Receipt of Ethics Summary

ANNEX A

DEFINITIONS

"AAA"	has the meaning given to that term in Section 21.3;
"AAA Rules"	has the meaning given to that term in Section 21.3;
"Active Period"	has the meaning given to that term in the Sublease Agreement;
"Additional Land"	Means the Abutter Parcels referenced in Schedule 2;
"Affiliate"	means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person; and *provided, further*, that an Affiliate of any Person shall also include (a) any Person that directly or indirectly owns more than fifty percent (50%) of any class of capital stock or other equity interest of such Person, (b) any officer, director, trustee or beneficiary of such Person, (c) any spouse, parent, sibling or descendant of any natural Person described in paragraphs (a) or (b) above, and (d) any trust for the benefit of any Person described in paragraphs (a) through (c) above or for the benefit of any spouse, issue or lineal descendant of any Person described in paragraphs (a) through (c) above;
"Agreement"	has the meaning given to that term in the preamble;
"Allowed NEO Funding"	has the meaning given to that term in Section 5.2.4;
"Applicable Law"	means any international, national, United States, State, municipal or other local statute, treaty, regulation, resolution, rule, ordinance, opinion, enactment, judgment, decision, award, order, Code, decree, directive, requirement, any common or customary law, constitutional law or other governmental restriction (including any Regulatory Approval) applicable to the Parties, the Project, the Port Facilities, the Port Services, the Site or any of the transactions contemplated hereby, and any form or decision of or determination by or interpretation of any of the foregoing by any Relevant Authority, now or hereafter in effect, in each case as amended, re-enacted or replaced;
"Authority"	means the Connecticut Port Authority and its successors and permitted assigns;
"Authority Event of Default"	has the meaning given to that term in Section 15.1;
"Authority Indemnified Party"	means each of the Authority and the State, and their respective representatives, directors, officers, agents, employees, attorneys and

	subcontractors;
"Authority Project Capital Costs"	means the actual monies paid by the Authority to fulfill its Budgeted Costs funding obligation for the Project pursuant to Section 8 of this Harbor Development Agreement;
"Bonus Completion Date"	has the meaning given to that term in Section 8.1.3(a);
"Budgeted Costs"	means all reasonable costs associated with Project permitting, engineering and design, third party reviews, environmental remediation, Haz-Mat abatement, title work and/or title insurance related to the Site, environmental studies to be performed with respect to the Site by the Authority and/or the State, third party escrow fees, demolition, construction, construction administration, contingency and other costs directly related to the Work as outlined in Schedule 4 including material and inspection costs, reasonable costs internal or otherwise of State Agency personnel and contingency, any and all costs associated with the NECR Lease to be paid by the Authority as well as lease/rental obligations to be paid pursuant to the NECR Lease, Gateway Wind Down Costs, insurance related premiums and related deductibles to be paid by the Authority as required pursuant to Schedule 6, and any and all costs associated with the Project paid by or to be paid by the Authority to its consultants or advisors with respect to the Project; provided, however, in no event shall the aggregate of all of such costs exceed $157 million. In no event shall Budgeted Costs include legal fees or expenses of any party in connection with the negotiation and execution of this Harbor Development Agreement;
"Business Day"	means a day (other than a Saturday or Sunday) on which the offices of the government of the State are open for business;
"Cap"	has the meaning given to that term in Section 15.6.2;
"Claims"	has the meaning given to that term in Section 15.6.2;
"CMR"	means Construction Manager at Risk.
"Code"	means Internal Revenue Code;
"Concession Agreement"	means the agreement entered into on January 7, 2019, which is attached as Annex C, as it may be amended from time to time, by and between the Authority and Gateway, conferring certain rights and obligations upon Gateway for the administration of the Port Facilities and to provide Port Services;
"Concessionaire"	means Gateway as the as the Concessionaire under the Concession

	Agreement;
"Condition Failure Notice"	has the meaning given to that term in Section 2.4;
"Construction Administrator"	has the meaning given to that term in Section 5.5;
"Contract Documents"	has the meaning given to that term in Section 5.5;
"Coverages"	has the meaning given to that term in Section 15.6.2;
"CPA Excess Cost Repayment"	has the meaning given to that term in Section 8.4.4;
"CPA Funding Action"	has the meaning given to that term in Section 8.2;
"Cross Sound Ferry"	means the ferry services operated by Cross Sound Ferry Services, Inc. located at 2 Ferry St., New London, CT;
"Default"	means any event, circumstance or condition that constitutes an Event of Default or which, upon notice, lapse of time or any combination thereof, would become an Event of Default;
"Design Agreement"	has the meaning given to that term in Section 4.1.3;
"Designer"	has the meaning given to that term in Section 4.1.3;
"Designated Senior Person"	means an individual, as designated from time to time by each Party, with the appropriate level of oversight and authority for the purposes of Section 21;
"Disbursement Request"	has the meaning given to that term in Section 11.1.1;
"Discriminatory Change in Law"	means any change in Applicable Law enacted (or which comes into force) after the Effective Date by the State or the Authority or their agencies or instrumentalities, the terms of which have a Material Adverse Effect on the Project;
"Dollars", "USD" or "$"	means the lawful currency from time to time of the United States of America;
"Duly Authorized Signatory"	means an individual, as designated from time to time by each Party, with the requisite authority to bind the Party to certain actions and obligations as set forth in this Harbor Development Agreement;
"DWW"	means Deepwater Wind, predecessor through merger, of NEO;
"DWW Funding Commitment"	means the $15 million and $7.5 million previously described by DWW in its Connecticut Clean Energy RFP response and its Connecticut Zero Carbon RFP response, respectively, for an aggregate amount of $22.5

	million;
"Effective Date"	has the meaning given to that term in Section 2.1;
"Employee"	means a person employed by a Party to this Harbor Development Agreement or assignee thereof in connection with the Project;
"Encumbrance"	means any mortgage, pledge, charge, assignment, hypothecation, lien (statutory or other), security interest, deposit arrangement, encumbrance, right of set-off, trust arrangement, option, counterclaim, preference, priority agreement or any other equity or preferential arrangement of any kind or nature whatsoever (including any designation of loss payees or beneficiaries or any similar arrangement under or with respect to any insurance policy, any conditional sale or other title retention agreement and any lease having substantially the same economic effect as any of the foregoing) or any agreement or arrangement to create any of them;
"EPC Contractor"	means the general contractor obtained through a Design/Bid/Build delivery method or a CMR pursuant to Applicable Law to complete the Work on behalf of the Authority;
"Escrow Agent"	means Webster Bank;
"Escrow Agreement"	means the agreement by and among the Authority, NEO and the Escrow Agent, the form of which is attached hereto as Annex E;
"Event of Default"	means a material breach of this Agreement caused by or resulting from the actions or inactions of a Party to this Agreement;
"Excess Bid Costs Shortfall Notice"	has the meaning given to that term in Section 5.2.4;
"Excess Costs"	has the meaning given to that term in Section 7.2;
"Execution Date"	has the meaning given to that term in the Preamble;
"Existing Customers"	has the meaning given to that term in Section 9.2.3;
"Expenses"	has the meaning given to that term in Section 17.1;
"Final Acceptance"	shall have the meaning given the term in Section 5.5;
"Force Majeure"	has the meaning given to that term in Section 13.1;
"Gateway"	means Gateway New London LLC, its successors or assigns;
"Gateway Fixed Payments"	means "Annual Fixed Fee" as defined in the Concession Agreement;

"Gateway Gross Revenues"	means "Gross Revenues" as defined in the Concession Agreement;
"Gateway Event of Default"	has the meaning given to that term in Section 15.5.1;
"Gateway Minimum Variable Payments"	means "Variable Fee" as defined in the Concession Agreement;
"Good Industry Practice"	means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator adhering to internationally recognized good practices prevailing at the relevant time and seeking in good faith to comply with its contractual obligations, the Port Standards (as defined in the Concession Agreement) and all other Applicable Laws;
"Harbor Development Agreement"	has the meaning given to that term in the Preamble;
"Hazardous Substance"	means (a) any radioactive materials, asbestos-containing materials, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum byproducts and derivatives and radon gas, or (b) any other chemical, material, substance, waste, pollutant or contaminant that is capable of causing damage, harm or disruption to the Environment or is prohibited, limited or regulated by or pursuant to any Environmental Law;
"Host New London Agreement"	has the meaning given to that term in Section 8.1.3(a);
"Idle Period"	has the meaning given to that term in Section 16.3.1;
"Indemnification Notice"	means a notice referred to in Section 17.5.1;
"Indemnified Party"	means the Party to be indemnified pursuant to Sections 17.1 to 17.3, as applicable;
"Indemnifying Party"	means the Party providing indemnification pursuant to Sections 17.1 to 17.3, as applicable;
"Insurance Requirements"	means the obligations set forth in Section 18 with respect to the Site, the Work, the Port Facilities and the Port Services, including required insurance, obligations with respect to the payment of premiums and rights and obligations with respect to the payment of losses under insurance policies;
"JTC Chairperson"	has the meaning given to that term in Section 3.4;
"Joint Technical Committee"	has the meaning given to that term in Section 3;

"LQRB"	has the meaning given to that term in Section 5.2.3;
"Material Adverse Effect"	means a material adverse effect on the business, financial condition or the rights of any Party under this Harbor Development Agreement; *provided, however*, that no effect arising out of or in connection with or resulting from any of the following shall be deemed, either alone or in combination, to constitute or contribute to a Material Adverse Effect: (a) general economic conditions or changes therein; (b) financial, banking, currency or capital markets fluctuations or conditions (whether in the United States, any of its territories or any international market and including changes in interest rates); (c) conditions affecting all of the real estate, financial services, construction or marine port industries; (d) any existing event, occurrence or circumstance of which all Parties have knowledge as of the Effective Date; (e) any action, omission, change, effect, circumstance or condition contemplated by this Harbor Development Agreement or attributable to the execution, performance or announcement of this Harbor Development Agreement or the transactions contemplated hereby, with the exception of litigation related to the execution or delivery of this Harbor Development Agreement; (f) any negligence, intentional misconduct or bad faith of a Party or its representatives; (g) any changes in industry standards, technology, available materials or resources; or (i) the adoption of any Applicable Law by any Relevant Authority after the Effective Date, or any change in any Applicable Law or in the interpretation or application thereof by any Relevant Authority after the Effective Date;
"Mediation"	has the meaning given to that term in Section 21.3(b);
"Minimal Scope"	has the meaning given to that term in Section 2.4;
"NECR Lease"	has the meaning given to that term in Section 2.4;
"NEO"	means North East Offshore LLC, or its Affiliate;
"NEO Event of Default"	has the meaning given to that term in Section 15.3;
"NEO Project Capital Costs"	means the actual monies, excluding the DWW Funding Commitment, paid by NEO to fulfill its Budgeted Costs funding obligation for the Project pursuant to Section 8 of this Harbor Development Agreement;
"New London State Pier Facility"	means the Port Facilities located at the Site;
"Notice of Completion"	has the meaning given to that term in Section 5.3;
"Party" or "Parties"	means the Authority, NEO, or Gateway, as individually or collectively

	referenced;
"PCMPD"	means the Project Conditions and Milestone Performance Date Schedule and attached as Schedule 2;
"PDWS"	has the meaning given to that term in Section 4.1.1 and attached as Schedule 3;
"Permit"	means all permits, approvals, licenses, authorizations, certifications, filings, recordings or other approval, including without limitation zoning, land use, building, environmental, construction and operating permits that are required to be obtained or maintained or otherwise necessary in any activity related to the Port Facilities and performance of the Work;
"Person"	means any individual, partnership, corporation, company, business organization, trust, governmental agency or other entity;
"Phase 1 Project"	means the Phase 1 Work as more fully described on Annex B, Appendix A, the Substantial Completion of which shall be no later than December 31, 2021;
"Phase 2 Project"	means the Phase 2 Work as more fully described on Annex B, the Substantial Completion of which shall be no later than August 31, 2022;
"Port Facilities"	means the reclamation, piers, docks, wharves, terminals, buildings, structures, storage areas, roads, railways, machinery, apparatus and like facilities intended to form or forming part of the works designed, built, constructed, located, maintained, operated and/or improved at the Site, including all supporting infrastructure, Cranes, Fixtures and Fittings and Movable Property incidental thereto or necessary or useful for the provision of the Port Services at the Site, as the same may be altered or added to from time to time in accordance with the Concession Agreement;

"Port Services"	means: (a) the services, responsibilities and other obligations of the Concessionaire specified in Annex B (Port Services) of the Concession Agreement, (b) all other services, responsibilities and other obligations of the Concessionaire as is provided elsewhere in the Concession Agreement, (c) such other business, activities, facilities and services as may be necessary or incidental to the provision of the foregoing or otherwise ordinarily provided from time to time at marine terminal facilities and (d) such other business, activities, facilities and services as the Concessionaire may be permitted or required to provide from time to time in accordance with Sections 8.3, 8.5 or any other provision of the Concession Agreement, or pursuant to the Port Standards, Applicable Laws or Good Industry Practice;
"Project"	has the meaning given to that term in the Recitals;
"Project Agreement"	means this Harbor Development Agreement, the Concession Agreement, the Sublease Agreement, and each other agreement or instrument initialed or otherwise designated in writing as a "Project Agreement" to which either the Authority, NEO, or Gateway is a party and which further effectuates the bargained-for value of this Harbor Development Agreement;
"Project Documents"	has the meaning given to that term in Section 1.5;
"Project Milestone"	means the date by which a critical Project activity is completed, as identified in the PCMPD; collectively Project Milestones;
"Redevelopment"	shall have the meaning given to the term in Section 9.2.3;
"Regular Delivery Date"	has the meaning given to that term in Section 8.1.4;
"Regulatory Approval"	means, collectively, all licenses, permits, approvals, orders, authorizations, registrations, filings or consents required by Relevant Authorities, the Authority, Applicable Laws, the Port Standards, Good Industry Practice or generally accepted practices with respect to the administration, management, operation, improvement and maintenance of, and the provision of Port Services at, the Site and the Port Facilities;
"Release"	means any spilling, leaking, pumping, pouring, emitting, discharging, escaping, leaching, dumping, disposing, dispersing, injecting, depositing, emanating or migrating of any Hazardous Substance in, into, onto, or through the Environment or within any building, structure, facility or fixture;
"Relevant Authority"	means any United States Federal, State, local, municipal or other public authority, body, agency, ministry, department, commission,

	instrumentality, court, tribunal, judicial or arbitral body or other Person having jurisdiction over or with respect to any Party, the Port Facilities, the Port Services, the Site or the Project, including without limitation the U.S. Coast Guard and any other branch of the military services of the State or the United States;
"Remainder"	has the meaning given to that term in Section 8.1.1(e);
"Rescoped Project"	has the meaning given to that term in Section 2.4;
"Rescoping Deadline'	has the meaning given to that term in Section 14.1;
"Savings"	has the meaning given to that term in Section 8.5;
"Site"	means the land, spaces and surfaces described in Schedule 1 (Description of the Site), and shall include, when acquired by the Authority, whether by lease or in fee, the Additional Land;
"State"	means the State of Connecticut;
"Subcontract"	means any other subcontract, purchase order or similar agreement with any Subcontractor;
"Subcontractor"	means any Person with whom the Authority or Gateway has entered into a contract or subcontract to perform services or to provide any materials, equipment, supplies or other goods to or on behalf of the itself in connection with the Project (and any other Person with whom any Subcontractor has further entered into such a contract or subcontract);
"Sublease Agreement"	means that agreement by and between Gateway, the Authority and NEO setting forth the terms and conditions of Gateway's sublease and the Authority's sublease to NEO at the Site, the form of which is attached as Annex D to this Agreement;
"Substantial Completion"	has the meaning given to that term in Section 5.5;
"Tax" or "Taxes"	means any present or future net income, alternative or add-on minimum tax, gross income, gross receipts, value added, sales, use, advalorem, payments in lieu of taxes, franchise, capital, paid-up capital, profits, greenmail, licenses, withholding, payroll, employment, excise, severance, stamp, occupation, premium, real or personal property, environmental or windfall property tax, customs duty or other tax, fee, duty or other like assessment or charge of any kind whatsoever (including notarization and registrations fees, royalties, bonuses, rentals and other state charges) together with any interest or any penalty, addition to tax or additional amount imposed, levied or charged by an Relevant Authority, but excluding for the avoidance

	of doubt, any fee paid under the Concession Agreement;
"Term"	has the meaning given to that term in Section 2.1;
"Termination Date"	means the date on which this Harbor Development Agreement terminates in accordance with Section 16.1;
"Variance"	has the meaning given to that term in Section 8.1.1(e);
"Wind Down Costs"	has the meaning given to that term in Section 9.2.2;
"Work"	has the meaning given to that term in Section 4.1.1; and
"WTG"	has the meaning given to that term in the Recitals.

ANNEX A

RULES OF INTERPRETATION

(a) An "amendment" includes any modification, supplement, novation or re-enactment (and "amended" is to be construed accordingly);

"assets" includes present and future properties, revenues and rights of every description whether real, personal or mixed, and whether tangible or intangible;

an "authorization" includes an authorization, consent, approval, order, resolution, permit, notice, license, exemption, filing, registration and notarization;

"control" means, with respect to a Person, the possession, directly or indirectly, to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise (and the terms "controlled by" and "under common control with" shall have correlative meanings); and

an "instrument" includes any written document.

(b) A Section, Clause, Recital, Schedule, Exhibit, Part or paragraph is, subject to any contrary indication, a reference to a section, clause, recital, schedule, exhibit, part or paragraph of the agreement or document in which such reference appears.

(c) A reference to any Party or Person includes its successors and its permitted transferees and assigns.

(d) Unless otherwise specified, a time of day is a reference to New London, Connecticut time.

(e) Unless the contrary intention appears, a term defined or construed in any communication or document made or delivered under or in connection with this Harbor Development Agreement has the same meaning when used in any other such communication or document and vice versa.

(f) Unless the context otherwise requires, reference to the singular includes a reference to the plural and vice versa and reference to the masculine includes a reference to the feminine and neuter.

(g) Unless the context otherwise requires, any reference to an agreement, document or other instrument shall be a reference to the same including all schedules, exhibits, annexes and other attachments thereto, and in each case as amended, novated, supplemented and in effect from time to time, and any reference to any Regulatory Approval or other Applicable Law includes references to the same as amended, novated, supplemented, re-enacted or applied (before or after the signature of the agreement, document or instrument in which such reference is made).

(h) Unless the contrary intention appears, the term "including", "include" or "includes" shall be deemed to be followed by the phrase "but not limited to", and the term "material" and "materially" shall be deemed to be followed by the phrase "in the reasonable opinion of the relevant Party".

(i) A document is in "agreed form" if it is in the form initialed for the purposes of identification as such by the Parties.

(j) The index to and the headings in any agreement or document are for convenience only and are to be ignored in construing such agreement or document.

(k) The annexes, schedules, appendices or exhibits attached to an agreement are an integral part of that agreement.

(l) Except as otherwise expressly provided, where the day on or by which a payment is due to be made is not a Business Day, that payment shall be made on or by the next succeeding Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not one). If the due date of such payment is extended, interest, fees and charges (if any) thereon shall continue to accrue for the period from the due date that is not a Business Day to that next succeeding Business Day.

(m) An approval by the Authority is not "unreasonably withheld or delayed" if such approval requires action by another Relevant Authority whose processes or procedures delay approval by the Authority.

(n) Unless specified otherwise, any approval that is required or permitted under this Harbor Development Agreement must be in writing (unless waived in writing by the other Party), and unless otherwise provided in this Harbor Development Agreement, such an approval shall not be unreasonably or arbitrarily withheld or conditioned.

(o) The word "discretion" with respect to any Person means the sole and absolute discretion of such Person.

New London State Pier

Basis of Design

Prepared for:

North East Offshore LLC

One International Place
100 Oliver Street, Suite 2610
Boston, MA 02110

January 28, 2020

Prepared by:

moffatt & nichol

Revision Record

Issue	Date Issued	Purpose of Issue and Amendments	Prepared By	Reviewed By
000	10/02/19	Draft - Issued for Review	C. Chalmers A. Pearson	M. Trowbridge S. Jessup
001	10/14/2019	Rev1 – Geotechnical Input Added	K. Perez	S. Jessup
002	1/28/2020	Rev2 – Installation Berth Relocation	C. Chalmers	S. Jessup

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Acronyms

AASHTO	American Association of State Highway and TransportationOfficials
ACI	American Concrete Institute
AISC	American Institute for Steel Construction
ASCE	American Society of Civil Engineers
ASD	Allowable stress design
AWS	American Welding Society
BOD	Basis of Design
BOEM	Bureau of Ocean Energy Management
CVRR	Central Vermont Railroad
HAT	Highest Astronomical Tide
HML	High Mast Light
ICC	International Code Council
LAT	Lowest Astronomical Tide
MBL	Minimum Breaking Load
MDF	Main Data Frame
MHHW	Mean Higher High Water
MHW	Mean High Water
MLLW	Mean Lower Low Water
MLW	Mean Low Water
NAD83	North American Datum of 1983
NAVD88	North American Vertical Datum of 1988
NECR	New England Central Railroad
NOAA	National Oceanic and Atmospheric Administration
OCIMF	Oil Companies International Marine Forum
PIANC	Permanent International Association of Navigation Congresses
PPA	Power Purchasing Agreement
SPMT	Self-Propelled Modular Transporter
SWL	Safe Working Load
UFC	Unified Facilities Criteria
UHMW	Ultrahigh Molecular Weight
UHMW-PE	Ultrahigh Molecular Weight Polyethylene
USACE	United States Army Corps of Engineers
USCS	United States Customary System
WTG	wind turbine generation

1. INTRODUCTION

1.1.Background

The offshore wind industry in the northeast of the United States (US) is a relatively new industry that is poised for significant growth and development. Multiple states have passed legislation mandating offshore wind power be included in their energy portfolio. As a result, several power purchasing agreements (PPAs) have been awarded to various offshore wind developers. These new offshore wind farms will be commercial scale (over 300 MW). Additional northeastern states are in process to solicit and award additional PPAs. Due to the awarded power purchases and the pipeline of soon to be awarded work, significant infrastructure retrofits/enhancements will be required to prepare the region to support the offshore wind farm supply chain.

Offshore wind components are extremely large and require port facilities with significant laydown area and high loading capacities. Due to the size and weight of the components, they are typically transported over water rather than over land. Currently there are no manufacturing facilities in the northeast US capable of producing the required components; therefore, they will be imported to the port facility from overseas manufacturers.

This project seeks to retrofit the existing Admiral Shear State Pier complex (State Pier) in New London, Connecticut so that it can serve as a regional wind turbine generation (WTG) offshore wind staging port for the import, staging, preassembly, and loadout of large offshore wind components. It is uniquely located with no air draft restrictions, direct access to a federally maintained deep water channel, with 25 acres of useable upland space. This is the sole facility in this region that possesses these essential characteristics. Upgrades to the existing uplands, electrical system and marine infrastructure are required for New London to serve as the desired regional WTG staging port. Despite the required upgrades, this facility's existing size, location, and direct unimpeded access to open water, as well as vicinity to multiple Bureau of Ocean Energy Management (BOEM) offshore wind sites make it an ideal candidate to serve as a key WTG staging port for the region.

This facility is planned to import and stage turbines (nacelles and generators), blades, and towers. The facility will preassemble and load out these components onto installation vessels that will then transport the components to site for final installation. The port will be prepared so that offshore wind developers can utilize the facility via a lease agreement to perform the tasks mentioned above. The site improvements will occur both on the uplands and the existing marine infrastructure. In addition, the site will satisfy the long-term needs of the site owner, the Connecticut Port Authority. Retrofits made to the terminal will also consider the long-term operations of the facility. Retrofits and new components should not limit the ability of the facility to serve as a bulk terminal during breaks in offshore wind cargo and over the long term.

1.2.Site Description and Location

The existing State Pier Facility is located in New London, Connecticut and encompasses nearly 30 acres; see Figure 1-1, Figure 1-2, and Figure 1-3. The site has three general operational areas: the piers (State Pier and Central Vermont Railroad [CVRR]), near dock shoreline areas, and offsite areas. The offsite areas comprise about one-fourth of the overall acreage and are situated north of and

separated from the main port facility by State Pier Road and Amtrak's rail corridor embankment. The property generally consists of both paved and unpaved surfaces that are uneven or contain small depressions that pond water during storm events. The offsite areas are segmented by the rail siding to State Pier and bisected by the bridge piers for I-95's Gold Star Memorial Bridge. The property is bounded to the west by the New England Central Railroad (NECR) tracks and to the east by the Thames River.

The near-dock shoreline areas are south of State Pier Road and accommodate most of the port's cargo intermodal activity. This area contains two heavy load warehouse buildings totaling 102,000 square feet with railcar and truck loading docks, two 3,200-square-foot equipment forklift maintenance buildings, an administration building, and three modular buildings that house port security and operations personnel. The area located at the head of the two piers is largely paved to facilitate forklift and tractor trailer movements. The shore edge consists of a combination of sheet piling, pile-supported docks, and stone block quay walls. The western area adjoining the NECR siding yard are largely unpaved areas, with irregular topography.

As shown in Figure 1-3, the site generally consists of the Uplands, Northeast Bulkhead, Northwest Bulkhead, CVRR Pier, and State Pier.



Figure 1-1: New London State Pier – Vicinity Map (Google Earth,2019)



Figure 1-2: New London State Pier – Vicinity Map (Google Earth,2019)

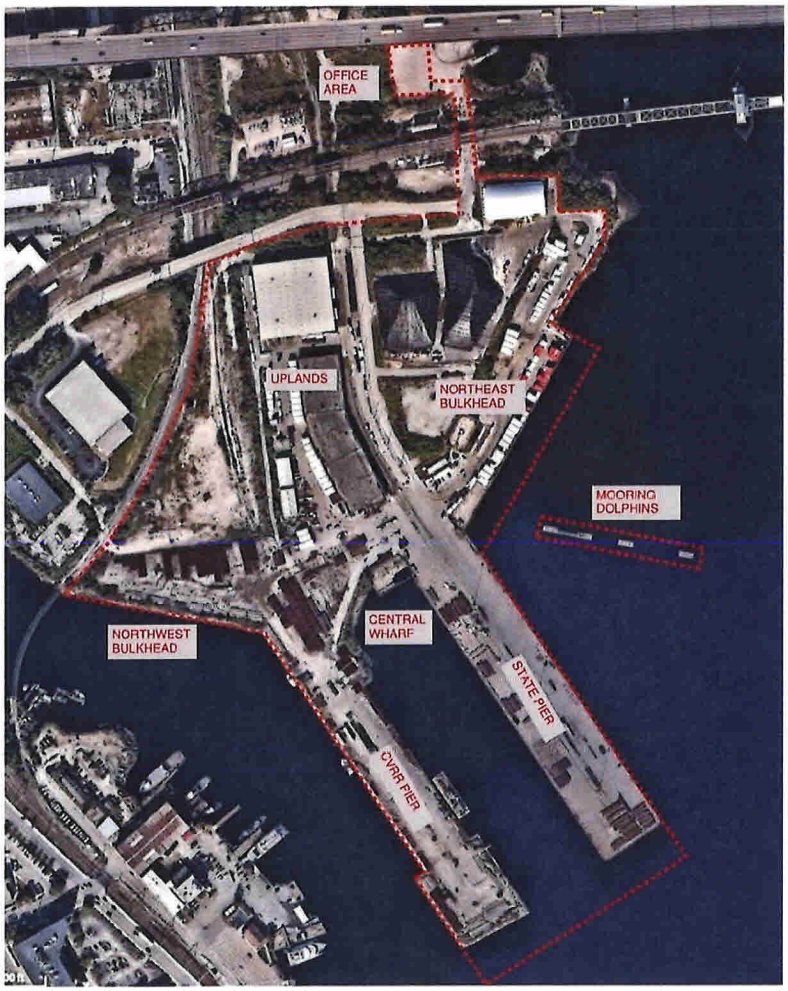


Figure 1-3: New London State Pier - Facility Layout

1.3.Project Description

Design documents will be delivered in a single phase. However, the project is being considered in two distinct phases. Phase 1 will incorporate the required site investigations, work on the uplands and the Northeast Bulkhead. Phase 2 will incorporate the work on and between the CVRR and State Piers. Dredging may be associated with both Phase 1 and Phase 2 of the project, with the delivery berth and installation berth potentially dredged separately or in one dredge window, depending on the project phasing and timing with seasonal dredging windows. The design of the installation vessel berthing on the east face of the State Pier is in the preliminary stages. This design will be refined and updated as this project moves forward. The current project includes the following improvements at the State Pier site. Phase 1 and Phase 2 work are defined in Appendix A.

1.3.1. Uplands

- Demolition of various buildings
- Demolition of the north-south section of State Pier Road
- Demolition of existing site utilities
- Level uplands and grade site to match elevation of State Pier (approximately +9.0 feet NAVD88)
- Installation of site storm water collection and treatment system
- Installation of retaining wall to support altered vehicle entryconfiguration
- Installation of potable and fire suppression water systems
- Installation of perimeter fencing and associated lighting and security
- Installation of new high mast lighting grid
- Installation of electrical service to meet site requirements
- Installation of elevated outlet racks for nacelles
- Installation of electrical infrastructure to facilitate cold ironing of import and installation vessels
- Remove rail spur south of Warehouse 1
- Reinstallation of double track rail to State Pier
- Installation of dense graded aggregate top surface to support operational loading

1.3.2. Northeast Bulkhead

- Demolition of existing pile-supported platform at western end of Northeast Bulkhead (Northeast Annex)
- Dredge to accommodate import and installation vessels, and disposal of spoils
- Seabed preparation for jack-up installation vessel leg loads
- Installation of energy-absorbing fenders and mooring bollards
- Demolition of existing mooring dolphins
- Installation of bulkhead wall directly outshore of existing bulkhead
- Installation of heavy lift pile-supported platform inboard of the bulkhead
- Installation of vessel electrical cold ironing service outlets and duct banks

1.3.3. State Pier and CVRR Pier

- Demolition of the western portion of pile-supported area at the State Pier to facilitate fill placement
- Demolition of approximately 600 feet of State Pier (Southern 600 feet)
- Installation of bulkhead or pile supported wharf to replace the 600 feet of State Pier removed. New area is anticipated to be all or partially heavy-lift area
- Placement of fill between the CVRR and State Pier to match elevation of existing State Pier
- Protect in place existing historical western edge of CVRR Pier
- Raising elevation of remaining horizontal surface of the CVRR Pier to match that of the State Pier
- Installation of bulkhead wall +/- 30 ft to east of western edge of CVRR Pier to laterally support fill (raised elevation)
- Installation of bulkhead wall between State and CVRR Piers
- Installation of dense graded aggregate top surface over fill between two pier and on reconstructed heavy lift area on State Pier.
- Selective demolition of southeast corner of State Pier to accommodate a mooring dolphin.
- Installation of energy-absorbing fenders and mooring bollards
- Dredge berth pocket for jack-up installation vessel and dispose spoils (east face of State Pier)
- Seabed preparation for jack-up installation vessel leg loads

2. DATUMS AND UNITS

The horizontal coordinate system shall be North American Datum of 1983 (NAD83), Connecticut State Plane.

The vertical coordinate system shall be North American Vertical Datum of 1988 (NAVD88), Geoid 12B.

United States Customary System (USCS - feet, inches, pounds, etc.) units shall be used. Certain design parameters provided by the Client are given in metric units and are included in this document, along with their conversion to USCS units.

3. CODES, STANDARDS, AND REFERENCES

The following codes, standards, and references shall govern the design of the facility.

3.1.Codes & Standards

American Association of State Highway and Transportation Officials (AASHTO):

- AASHTO LRFD (Load Resistance Factor Design) Bridge Design Specifications, Seventh Edition, 2014
- AASHTO Standard Specifications for Structural Supports for Highway Signs, Luminaries, and Traffic Signals, Fifth Edition, 2009
- Guide for Design of Pavement Structures (1993)

American Concrete Institute (ACI):

- ACI 318-14, Building Code Requirements for Structural Concrete

American Institute for Steel Construction (AISC):

- AISC 303-10, Code of Standard Practice for Steel Buildings and Bridges
- AISC 341-10, Seismic Provisions for Structural Steel Buildings
- AISC 360-10, Specification for Structural Steel Buildings

American Society of Civil Engineers (ASCE):

- ASCE 7-10, Minimum Design Loads for Buildings and Other Structures
- ASCE 61-14, Seismic Design of Piers and Wharves
- Waterfront Facilities Inspection and Assessment, ASCE Manuals and Reports on Engineering Practice No. 130, 2015

American Welding Society (AWS):

- AWS D1.1, Structural Welding Code, 2010

Connecticut Department of Administrative Services, Division of Construction Services:

- 2018 Connecticut State Building Code

Connecticut Department of Energy & Environmental Protection:

- CTDEEP, Connecticut Guidelines for Soil Erosion and Sediment Control (2002)

- Connecticut Stormwater Quality Manual (2004)

Connecticut Department of Transportation:

- CTDOT Connecticut Highway Design Manual (2003)

City of New London, Connecticut:

- Hazard Mitigation Plan Update, Annex for the City of New London, Southeastern Connecticut Council of Governments, Multi-Jurisdictional Hazard Mitigation Plan Update, December 2017.

Illumination Engineering Society (IES)

- The Lighting Handbook, 10thedition

International Code Council (ICC):

- IBC 2015, International Building Code

National Fire Protection Association

- NFPA 70, National Electric Code, 2017
- NFPA 307, Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves

Oil Companies International Marine Forum (OCIMF):

- Mooring Equipment Guidelines (MEG4), 4th Edition, 2018

Permanent International Association of Navigation Congresses (PIANC):

- PIANC WG 33, Guidelines for the Design of Fenders Systems, 2002
- PIANC WG 34, Seismic Design Guidelines for Port Structures, 2001
- PIANC WG 153, Recommendations for the Design and Assessment of Marine Oil and Petrochemical Terminals, 2016

United States Army Corps of Engineers (USACE)

- USACE EM 1110-2-1100, Coastal Engineering Manual, 2002
- USACE EM 1110-2-2504, Design of Sheet Pile Walls, 1994

Unified Facilities Criteria (UFC)

- UFC 4-152-01 Design: Piers and Wharves, 2017
- UFC 4-159-03 Design: Moorings

3.2.References

Previous available reports at the project site are as follows:

- *April 11, 2013 Field Reconnaissance Visit Memorandum*, New London State Pier Complex, New London Connecticut, Mueser Rutledge Consulting Engineers, 2013-04-26.

- *Preliminary Design Report*, State Pier Complex Improvements, New London, Connecticut, Milone & MacBroom, Inc. Revised, 2015-April, State Project No. 94-222/247, MMI #1433-79-6.

- *State Pier Needs And Deficiency Planning Study*, New London Connecticut, Milone & MacBroom, Version 1, 2011-March, ConnDOT Project #00-940222PL, MMI #1433-62.

- *Underwater Inspection Report*, State Pier New London, AECOM, 2018-10-19.

Documents provided by Ørsted are as follows:

- *Harbor Design Requirements*, New London State Pier, Ørsted, 2019-04-01.

Documents provided by Siemens are as follows:

- Greenfield Installation Harbour and Storage Areas Specification - Design Load Cases for Storage and Transport of WTG Components, Version 1, 2018-10-01, Instruction 41621.

- Greenfield Installation Harbour Specification - General Layout and Specific Load Cases (OF), Version 1, 2018-10-11, Instruction 41687.

- New London US Harbor - General Layout Drawing, 2019-05-07, Drawing Number D2060562.

- Along-Wind Loading for East Anglia Tower on CTF in the Port of Great Yarmouth (UK), Revision 1, 2018-04-04 Document Number MMI-EA1-QS-0001.

- GEO Report for the Compact Tower Frame at the Port of Hull (UK), 2018-08-03.

Other references include:

- North Atlantic Coast Comprehensive Study Phase I: Statistical Analysis of Historical Extreme Water Levels with Sea Level Change, US Army Corps of Engineers, September 2014, ERDC/CHL TR-147.

4. EXISTING SITE CONDITIONS

The following represents a summary of the existing site conditions for each area of the facility based on the referenced inspection reports provided to M&N.

4.1.Northeast Bulkhead

The Northeast Bulkhead (see Figure 4-1) currently consists of two systems: a timber pile-supported wharf (Northeast Annex) and an anchored steel sheet pile wall. The timber wharf is approximately 125 feet long by 50 feet wide and begins at the northeast corner of State Pier. Existing mudline elevations along the timber wharf average -20 feet NAVD88 and reach a toe elevation of approximately -36 feet NAVD88 at 70 feet off the face of the structure. The elevation and surface material of the timber platform matches that of the existing State Pier, but the area is cordoned off by jersey barriers. According to the 2013 inspection report, the wharf is in serious condition and berthing, storing, and stacking operations in this area have ceased.

The steel sheeting starts at the northern end of the timber wharf and extends northeast approximately 500 feet before turning 90 degrees and running 65 feet inland to meet a stone block retaining wall. The stone block wall then runs approximately 110 feet to the northeast. The mudline adjacent to the steel sheeting varies from approximately elevation -14 feet NAVD88 at the northern end to elevation -20 at the interface with the timber wharf.

The steel sheeting was not included as part of the 2013 inspection but does support a yard for cargo storage and stacking. The 2015 preliminary design report states that smaller vessels berth here occasionally, but current use of the structure is limited.

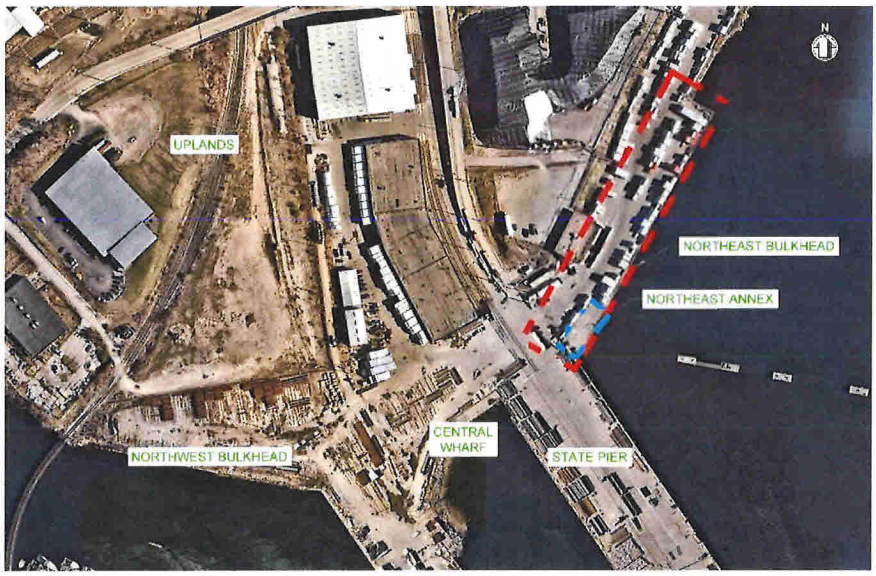


Figure 4-1: Northeast Bulkhead Work Area

4.2.Northwest Bulkhead

The Northwest Bulkhead (see Figure 4-2) consists of a granite stone block wall and a stone riprap slope. The bulkhead begins at the northwest corner of the CVRR Pier and runs west approximately 480 feet to the northwest, where it terminates adjacent to a bridge that carries a one-track rail spur over Winthrop Cove. The area is not currently used for any vessel operations.

The April 2013 structure inspection did not explicitly address any defects observed along the bulkhead, but the Milone & MacBroom report from 2015 notes that review of aerial photographs and the site inspection indicate segments of the original stone block wall have failed. The same report also notes that surveys prepared by the Connecticut Department of Transportation indicate that the top of the retaining wall is at elevation +3 feet NAVD88 and retains an armored slope with a crest of approximately elevation +7 NAVD88. The mudline at the bottom of the retaining wall lies at approximately -4 NAVD88 and slopes to a toe depth of elevation -22 NAVD88 over 175 linear feet from the face of the wall. It should be noted that only minimal work is expected at the Northwest Bulkhead, which will largely remain in its current state.

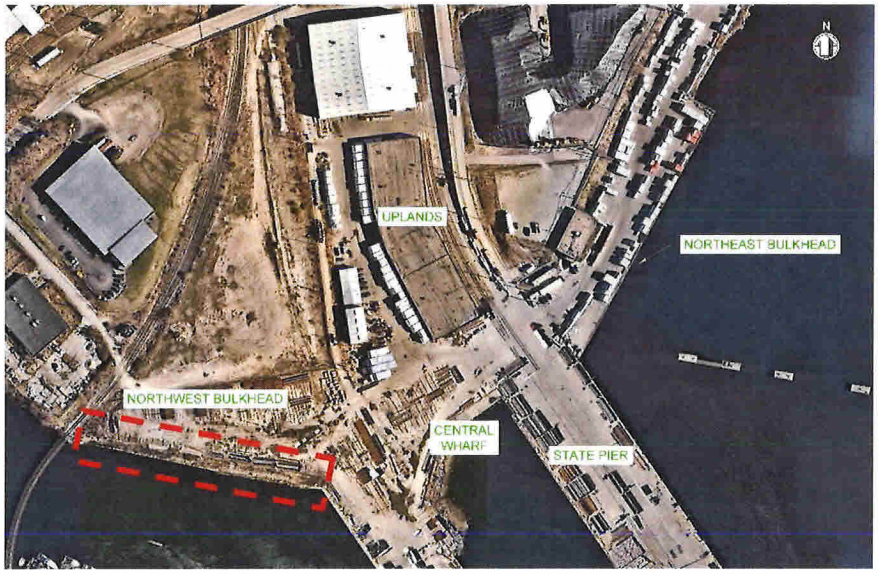


Figure 4-2: Northwest Bulkhead Work Area

4.3.Central Wharf (area between the piers)

A center shoreline section (see Figure 4-3) extends from the eastern edge of the stone block limits of CVRR Pier to the western edge of State Pier. This protected shoreline section extends 300 feet east of the corner of CVRR Pier and consists of large stone riprap and concrete slabs. To the east of this 300-foot section was a 115-foot-long by 50-foot-wide timber pile supported wharf that projected over the water from the shoreline. This wharf has since been demolished, and the shoreline currently consists of a granite block retaining structure along the length of the former wharf.

Along the protected shoreline, the top of the armored slope averages approximate elevation +6 NAVD88 at the existing jersey barriers positioned along the south perimeter of the paved site uplands. Approximately 20 feet outboard from the jersey barriers, the slope begins from elevation +5.5 NAVD88 and recedes to -28 NAVD88 over 90 linear feet. The mudline alongside the retaining structure varies from approximately elevation -13 feet to -21 feet NAVD88 and slopes to a toe elevation of -32 NAVD88 approximately 40 feet from the face of this structure.

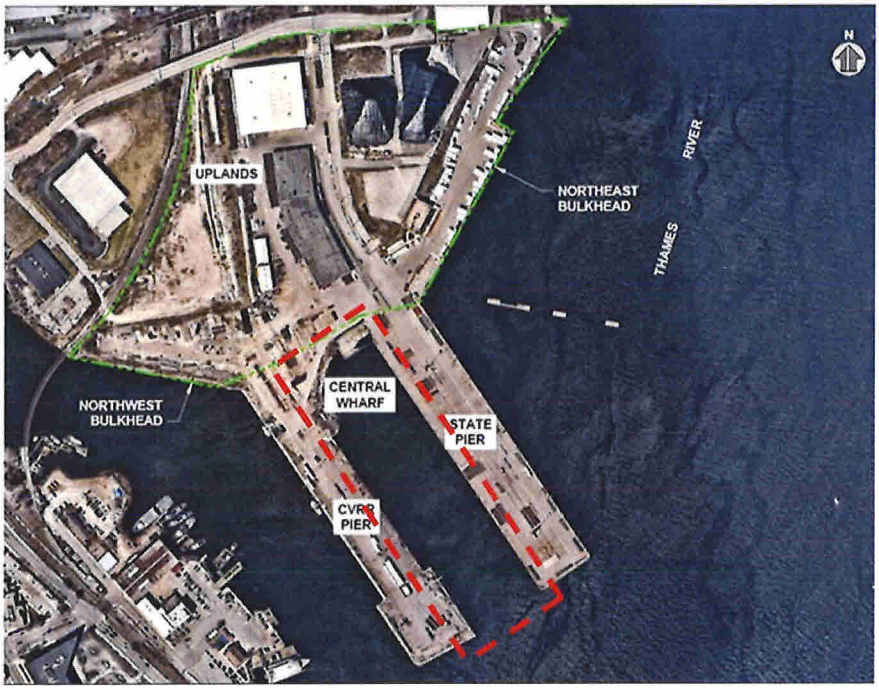


Figure 4-3: Central Wharf Work Area

4.4.State Pier

State Pier (see Figure 4-4) is approximately 1,000 feet long and 200 feet wide and currently provides the only available berthing area for large cargo ships at the facility. The pier has also been used for cruise-related vessel operations and is in satisfactory condition per the April 2013 inspection report conclusions.

The pier was originally built in 1912, with recent improvements along the east side of the pier undertaken in 1996-1997 and along the west side in 2001-2002. The improvements included partial removal of timber piles, installation of steel pipe piles, concrete decking replacement, and a new fender system.

The pier structure consists of 52-foot-wide steel-pipe pile-supported concrete deck aprons along each side of the pier with a 95-foot-wide central structure consisting of soil-supported precast concrete retaining walls backfilled with structural fill material. The armored slope below the 52-foot-wide pile-supported portions of the pier is steep (approximately 1V:1H), and portions of the original timber pile stubs remain from previous demolition efforts. The entire surface of the pier is comprised of a

concrete slab with a concrete paver wearing surface, except at the two rail lines where the adjacent surface is bituminous concrete.

Vessels are held off the east and west faces of the pier by rubber fender units, each 2.72 feet long, faced by fender panels with Ultrahigh Molecular Weight Polyethylene (UHMW-PE) facing. Fenders are bolted to the face of the structure and typically spaced at 34'-3". The south face of the pier head has a timber panel fendering system consisting of vertical timber piles and framing backed by structural steel walers (W16) and faced with rubber fender units. One-hundred-ton single-bitt bollards along the east and west of the pier are located coincident with fenders at 68'-6" spacing. The south face provides four bollards.

The finished elevation of the pier at the center is approximately +9.0 NAVD88. The typical finished grade at the interior retaining structure was designed to be elevation +8.5 NAVD88 and slope to +8.0 at the bottom of the 10-inch curb.

An underwater inspection report and side scan sonar indicate potential debris in areas of the berth. Also, hydrographic surveys conducted in 2015 indicate the elevation of the mudline alongside the east and west faces of the pier to be approximately -30 feet NAVD88, though in localized areas elevation -27 feet NAVD88 was recorded. The mudline drops away along the west face to a maximum depth elevation of -38 NAVD88 over 35 linear feet. Along the east face, the slope varies due to siltation but in the steepest regions reaches a toe elevation of -40 feet NAVD88 approximately 45 feet from the wharf face. In general, the eastern face basin depth is limited to bottom elevation -38 feet NAVD88. The south face of the pier berth provides less depth, with the mudline at elevation -25 feet NAVD88.



Figure 4-4: State Pier Work Area

4.5.CVRR Pier

The second main pier, CVRR (see Figure 4-5), is approximately 1,080 feet long. The width varies from 180 feet wide for the first 280 feet, 150 feet wide for the middle 540 feet, and 200 feet wide for the remaining 260 feet. The head of the pier provides a 220 foot (along south face) by 275 foot (along east face) working area. A large portion of the pier structure is original with a construction date circa 1890. The pier is used for cargo storage and stacking operations and for limited barge loading/offloading operations.

The pier consists of granite block retaining walls and structural fill with an interior finished surface elevation that varies from approximately elevation +4.5 to +5.5 feet NAVD88. The western side of the pier primarily serves as a mooring location for local fishing fleet with barge operations taking place at the pier head. This portion of the pier was rehabilitated in 2004 and is in fair condition per the findings of the April 2013 inspection.

In February 2014, a large cargo vessel was in the process of docking on the west side of State Pier with the assistance of a tugboat. During the docking operation, propwash from the tug caused scour along the base of the eastern stone masonry wall of CVRR Pier, which caused a 150-foot-long section of the wall to collapse into the water. Due to this failure the inshore +/- 500 ft of the eastern side of the pier was demolished and replaced with a tied-back steel sheet pile bulkhead. This incident speaks to the overall condition of the pier and the relative stability of the substructure.

Due to settlement and structural deterioration, the finished elevation along the remaining retaining wall varies but generally falls between elevation +4.5 and +5.5 feet NAVD88. Maximum existing available draft is provided off the western and eastern sides of the pier head, with a mudline of approximate elevation -12 feet NAVD88. Accordingly, the maximum retained height of the granite block retaining wall is approximately 17.5 feet along this segment of the structure. The southern face of the pier head provides approximately 6 feet of available draft at mean lower low water (MLLW), with a structure retained height of approximately 13.5 feet. The southernmost 120 feet of the eastern pier head provides similar available draft as the eastern portion (about 10 feet), with similar retained height. The remainder of the pier head is obstructed from direct access by a steel sheet pile wall, presumably placed to mitigate slope failures due to the failing granite block wall in these areas. From the toe of the retaining wall, the mudline slopes into the port basin at varying rates, as is indicated in the hydrographic surveys. Along the pier head, the western toe of the slope is about elevation -21 feet NAVD88, occurring approximately 70 feet from the face of the structure. At the south face, the surface slopes from elevation -8 to -22 feet NAVD88 over 140 linear feet. Along the eastern portion of the pier, the slope is much steeper, reaching -28 feet NAVD88 over 50 feet from the structure face.

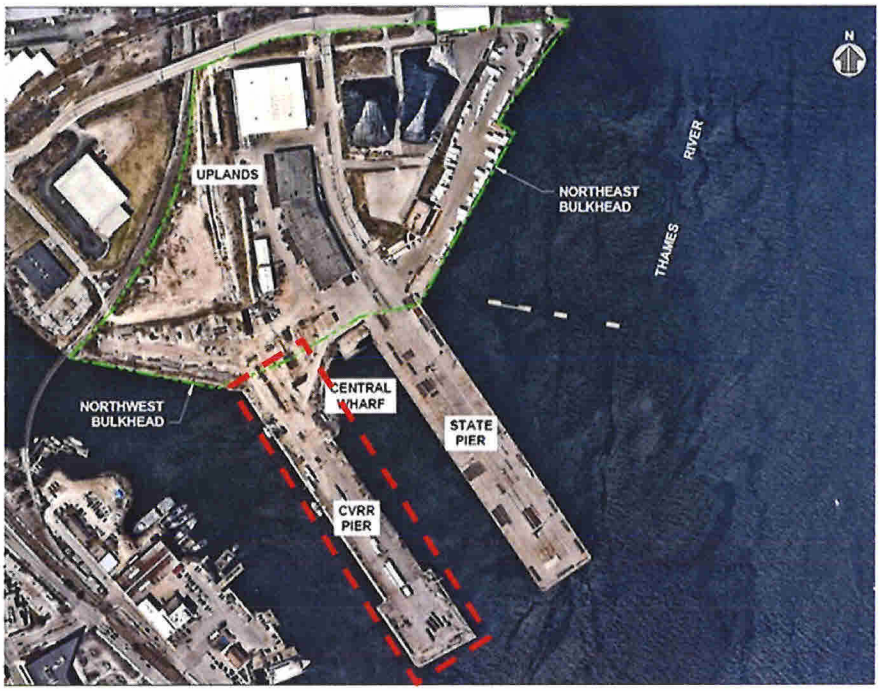


Figure 4-5: CVRR Pier Work Area

4.6.Berthing Dolphins

Four berthing dolphin structures (see Figure 4-6) exist in the Thames River approximately 200 feet east of the Northeast Bulkhead. These structures were built for the U.S. Navy to accommodate the mooring of submarine tenders in 1969, and they do not have direct access to the landside facility.

According to the Milone & MacBroom report, the steel piles are in poor condition with section loss up to 90%.

4.7.Installation Vessel Berth Pocket

Based on the latest 2019 hydrographic survey, mudline elevations along the east berth of State Pier range from -30 to -40 feet NAVD88.

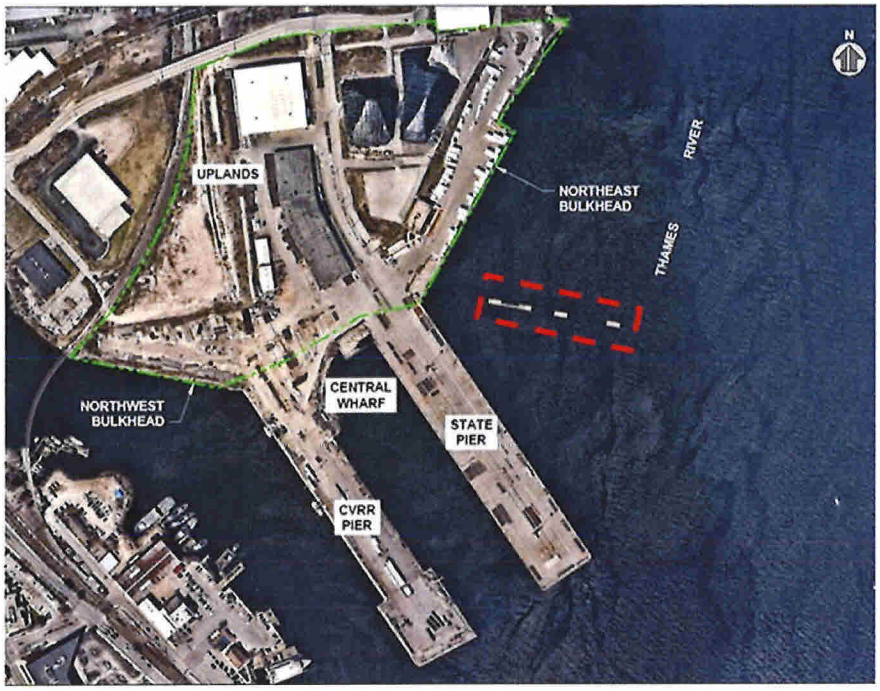


Figure 4-6: Berthing Dolphins Work Area

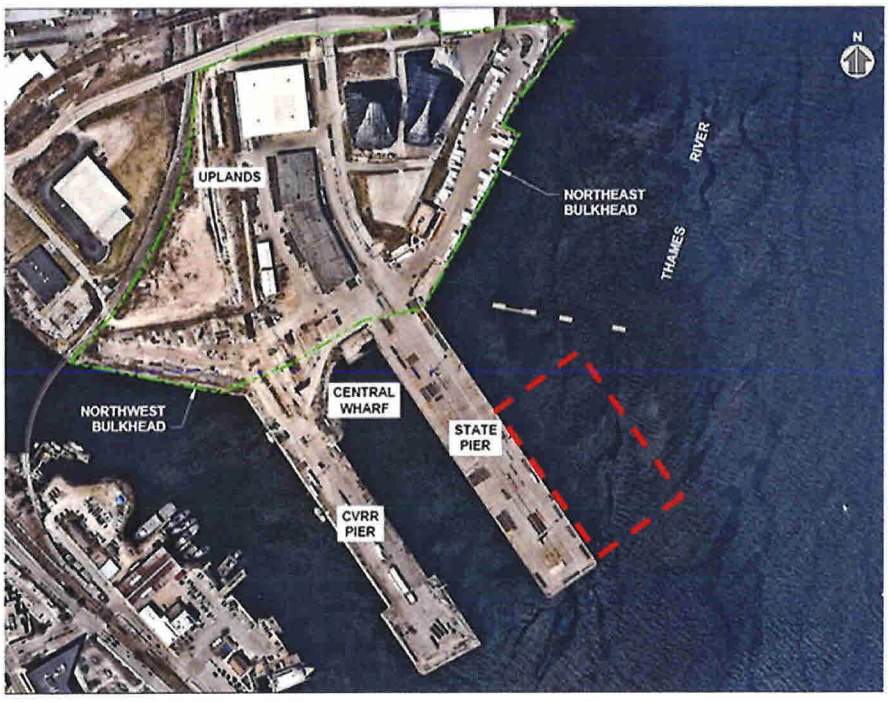


Figure 4-7: Installation Vessel Preparation Work Area

4.8. Functional Requirements

The following requirements represent the functional aspects that shall be incorporated into the design:

1. Site designed for top of grade elevation of +9.0 ft NAVD88 (matching existing elevation of State Pier top of deck). The Owner and Operator are aware the site may flood due to an extreme event and have operational plans to accommodate the flooding.

2. Per the Ørsted design requirements, all areas accessible for crawler cranes shall be designed with a flexible pavement of well graded crushed rock of a minimum thickness of 3 ft and to be confirmed in detailed engineering.

3. The delivery berth shall be located at the Northeast Bulkhead and shall be designed to accommodate both delivery and installation vessels. The berth shall be dredged to an elevation of -36 ft NAVD88 with a 1 ft overdredge allowance to accommodate a 33 ft (10 m) draft vessel with a minimum water depth of 38 ft at MLLW and 15% underkeel clearance.

4. The location of the new sheet pile wall installed at the delivery berth must not extend more than 18 inches channel-ward of the existing structure measured from the channel-ward face of the existing piling to the landward face of the proposed sheeting.

5. The installation berth shall be located on the East Side of the existing State Pier, along approximately 600 feet at the south end of the State Pier. The installation berth shall be designed to accommodate the installation vessel. The berth shall be dredged to an elevation of -36 ft NAVD88 with a 1 ft overdredge allowance to accommodate a 36 ft (11 m) draft spud leg with a minimum water depth of 38 ft at MLLW and 5% underlegclearance.

6. After dredging, the installation berth seabed shall be improved to minimize damage from installation vessel jack-up legs. This may require additional dredging.

7. The historical western edge of CVRR Pier shall be protected in place, with minor impacts allowed for stormwater management.

8. The marine structures shall be designed for a 50-year service life.

9. The marine structures are not designed for vessel or barge impact, vehicular impact, blast loading, or other impact loads.

10. A bulkhead safety zone shall be established within 15 ft of the waterside curb at the delivery berth and the installation berth.

11. Fenders shall be spaced at 50 ft maximum and bollards shall be spaced at 75 ft maximum.

12. The existing State Pier that is to remain (the northern part) will be used in an as-is condition. An analysis was performed to confirm the 1,000 psf design load based on the condition of the existing structure as reported by AECOM, 2018. Analysis of the existing State Pier

performance during an extreme event is outside the scope of this project. The structure will only be analyzed for operational loads based on modifications included in this project (eg. fenders and bollards).

13. The rebuilt portion of State Pier will be designed for the heavy loads associated with the installation berth of up to 5,000 psf, to be detailed in the loading plan.

14. The site will be designed to prevent local settlement that would inhibit SPMT movement. It is understood that the site will settle over time, and that additional gravel may be required to be placed on site in the future to compensate for settlement over time. Refer to Section 7.1.8 below for additional settlement details.

5. OPERATIONAL CRITERIA

After construction, the site will be turned over to an operator who will be responsible for all activities at the site for the specified term of their contract. The operator may change over the life of the facility. The high-level concept of operations for the site is as follows.

WTG components including blades, nacelles, and tower sections are delivered to delivery berth via an import vessel. A crane will be used to lift the WTG components from the delivery vessel onto the area behind the bulkhead temporarily before it is transported by self-propelled modular transporters (SPMTs) to its designated storage area in the uplands or on the State Pier. The components are moved via SPMTs to the Installation Berth and loaded onto the installation vessel. The tower sections will be preassembled at the Installation Berth. WTG components will be loaded to the installation vessel via a shipboard crane or via land-based cranes. Repairs, as required, will need to be completed during the transition period from one Operator to another.

6. ENVIRONMENTAL CRITERIA

6.1.Tides

The National Oceanic and Atmospheric Administration (NOAA) Station 8461490, New London, Thames River, Connecticut is the tidal gage closest to the project site. The location of this gauge is shown in Figure 6-1. Water levels datums are provided in Table 6-1 and are for the National Tidal Datum Epoch 1983-2001.



Figure 6-1: Location of NOAA Tide Station 8461490

Table 6-1: Tidal Parameters

Tidal Parameter	Elevation (ft MLLW)	Elevation (ft NAVD88)
Highest Astronomical Tide (HAT)	3.88	2.04
Mean Higher High Water (MHHW)	3.05	1.21
Mean High Water (MHW)	2.76	0.92
North American Vertical Datum of 1988 (NAVD88)	1.84	0.00
Mean Low Water (MLW)	0.19	-1.65
Mean Lower Low Water (MLLW)	0.00	-1.84
Lowest Astronomical Tide (LAT)	-0.81	-2.65

6.2.Extreme Water Levels and FEMA Flood Levels

Per the North Atlantic Coast Comprehensive Study Phase I: Statistical Analysis of Historical Extreme Water Levels with Sea Level Change (USACE, 2014), a summary of extreme water levels including sea level rise are shown in Table 6-2 for the 90% nonexceedance confidence level.

Table 6-2: Extreme Water Level Elevations with Sea Level Rise, New London, CT

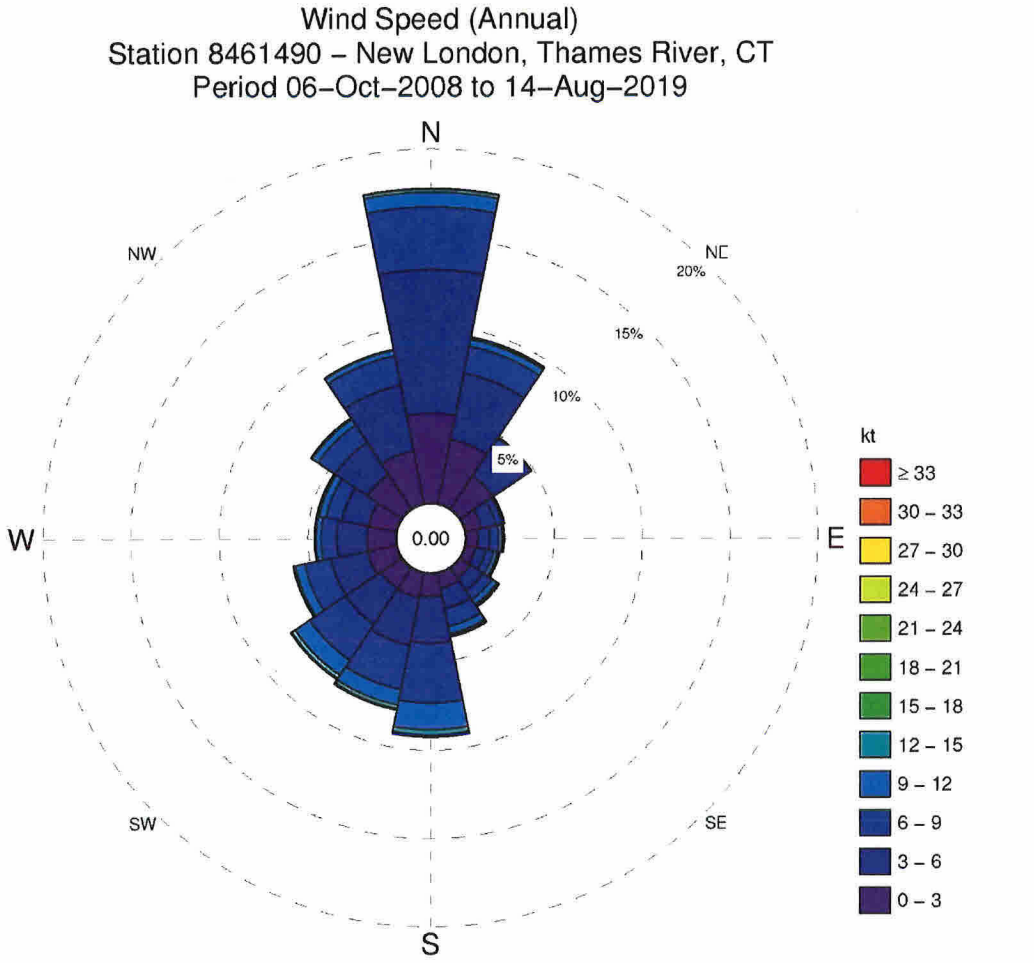
Return Period	Extreme High Water Elevation (ft NAVD88)				
	Historical (Linear)	Modified NRC-I	Modified NRC-II	Modified NRC-III	NOAA Highest
1	3.94	4.76	6.43	8.30	10.24
10	6.14	6.99	8.66	10.60	12.60
25	7.45	8.27	9.97	11.94	14.01
50	8.66	9.51	11.22	13.22	15.35
100	10.10	10.99	12.66	14.70	16.90
500	14.57	15.45	17.06	19.13	21.46

The uplands section of this facility is located in an AE Zone with a Base Flood Elevation of +11 feet NAVD88. The piers and proposed fill between the piers are located in a VE zone with a Base Flood Elevation of +14 ft NAVD88. These zones and base flood elevations were taken from FEMA Flood Insurance Rate Maps No. 09011C0502J and 09011C0501J dated August 5, 2013.

Per the City of New London Hazard Mitigation Plan Update (December 2017), critical infrastructure shall be located a minimum of 2 ft above the FEMA Base Flood Elevation.

6.3.Wind

Raw wind data for NOAA Station 8461490 was obtained from the NOAA Center for Operational Oceanographic Products and Services (CO-OPS). Refer to Figure 6-1 for station location. The dataset includes hourly wind speed and direction for an 11-year period between October, 2008 and August, 2019. The wind data are analyzed statistically and presented in Figure 6-2 and Figure 6-3 below. Wind speeds are reported at 2 minute scalar average at 32.8 ft (10 m) above ground level. Fifteen percent (15%) of the observations are missing. A gap analysis determined that the majority of missing observations are due to years when the station was down completely, rather than missing peaks. The majority were in 2008 and 2016, which are missing 9 out of 12 months. The station was operational during Hurricane Sandy - only missing 0.36% during October 2012 - and reports wind speeds of 30 knots over multiple hours when the storm made landfall in New England. The data were also back-checked against those reported at the Groton-New London Airport which is approximately 3 miles southeast at the mouth of the Thames River. The wind roses show similar distribution through the quadrants. However, the analysis could not verify the elevation of the anemometer nor the elevation of the ground level on the runway. The topography and surrounding structures are very different between the two sites, too. It is therefore difficult to make a direct comparison of the wind speeds at the two stations.



Percentage of Occurrence

Wind Speed, kt	N	NNE	NE	ENE	E	ESE	SE	SSE	S	SSW	SW	WSW	W	WNW	NW	NNW	Total
Total	17.77	9.60	4.86	2.25	2.16	1.98	2.66	3.68	9.25	7.89	7.59	5.99	4.62	4.61	6.20	8.89	100.00
33																	
30																	
27																	0.01
24									0.01								0.03
21								0.02	0.03	0.01	0.01						0.12
18	0.03	0.03			0.02	0.03	0.03	0.04	0.07	0.05	0.04	0.01	0.01	0.02			0.41
15	0.18	0.11		0.02	0.07	0.09	0.12	0.12	0.29	0.22	0.24	0.12	0.08	0.12	0.08	0.05	1.90
12	0.83	0.39	0.05	0.10	0.21	0.23	0.33	0.42	1.52	0.89	1.01	0.55	0.29	0.38	0.39	0.32	7.91
9	3.54	1.55	0.46	0.36	0.50	0.45	0.61	1.03	3.39	2.55	2.45	1.52	0.88	0.91	1.17	1.69	23.06
6	8.11	3.82	2.11	0.85	0.68	0.59	0.87	1.19	2.65	2.75	2.43	2.14	1.75	1.56	2.20	3.77	37.46
3	5.07	3.69	2.24	0.91	0.66	0.58	0.69	0.86	1.28	1.42	1.40	1.65	1.61	1.62	2.35	3.06	29.09
0																	
	N	NNE	NE	ENE	E	ESE	SE	SSE	S	SSW	SW	WSW	W	WNW	NW	NNW	Total

Figure 6-2: Annual Wind Rose for Station 8461490

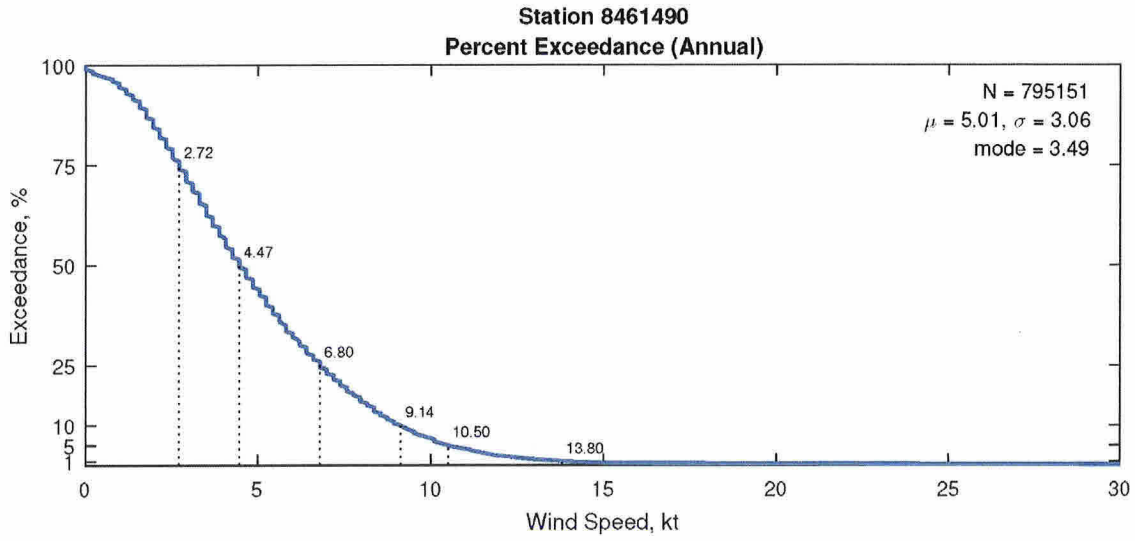


Figure 6-3: Percent Exceedance (Annual) Wind Diagram for NOAA Station 8461490

6.4.Current

Raw current data for NOAA Current Gauge "Groton, Thames River, Pier 6 (nl0101)" was obtained from the NOAA Physical Oceanographic Real-Time System (PORTS) database. Figure 6-4 shows the station location. The dataset includes current velocity and direction measurements for the following time periods.

- 2012-09-28 to 2014-12-12
- 2014-12-12 to 2018-11-16
- 2018-11-16 to present

The current data are analyzed statistically and presented in Figure 6-5 and Figure 6-6. The current velocities presented are depth averaged. The maximum measured current velocity is 1.3 knots and the 1% exceedance value is 0.53 knots. The gauge is located approximately two miles upstream from the project site. The cross-sectional area of the river at the project site is approximately 10% smaller than at the gauge location, which would increase the current velocity by approximately 10%. Additionally, the tidal prism at the project site is larger than at the upstream gauge, which would increase current velocity by approximately 0.1 knots. Therefore, the maximum current velocity expected at the site is approximately 1.5 knots. Design current shall be 2.0 knots.

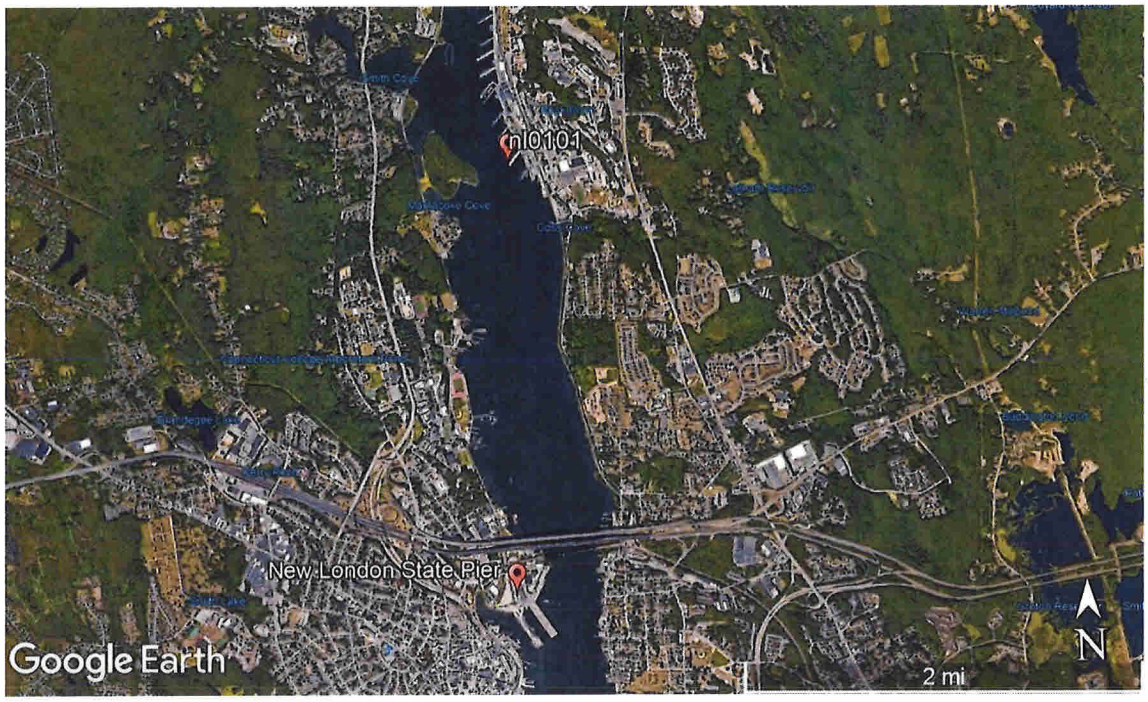


Figure 6-4: NOAA Current Gauge Station nl0101 Location

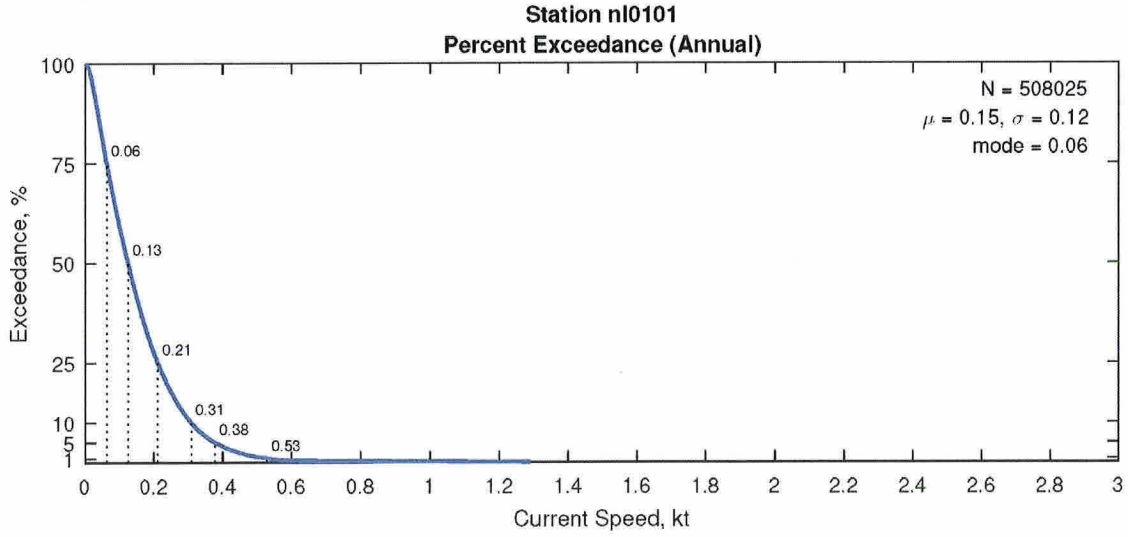


Figure 6-5: Percent Exceedance (Annual) Current Diagram for NOAA Station nl0101

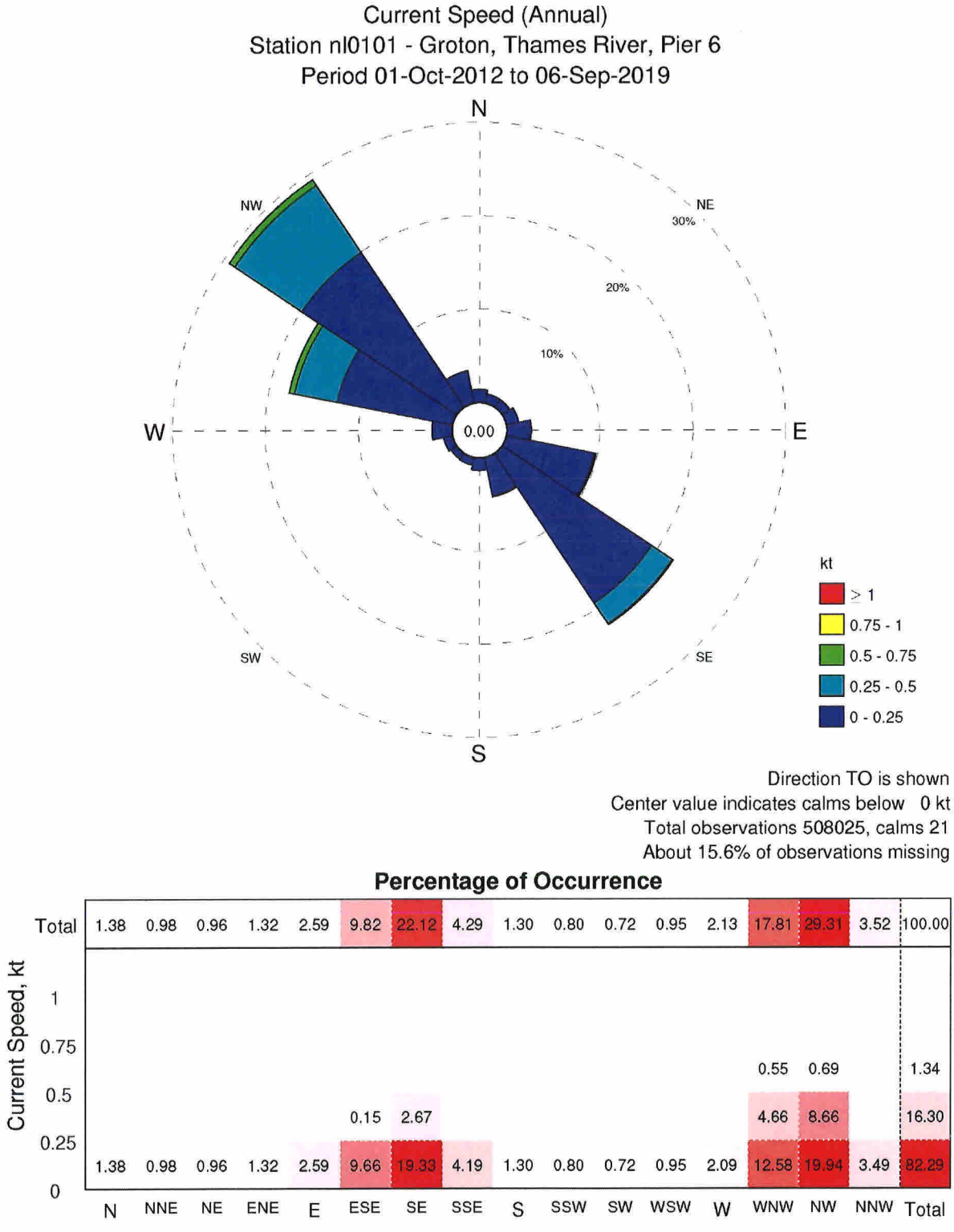


Figure 6-6: Current Rose for NOAA Station nl0101

6.5.Wave

The North Atlantic Coast Comprehensive Study (NACCS) data sets for water levels and waves (USACE 2015) were used to determine significant wave heights and wave peak periods as part of this project. As part of the NACCS, estimates of nearshore winds, waves, and water levels, as well as the associated marginal and joint probabilities were evaluated. NACCS model output points are located near the facility; see Figure 6-7. A summary of results is provided below in Table 6-3.

The facility shall be designed to accommodate a 100-year return period wave.

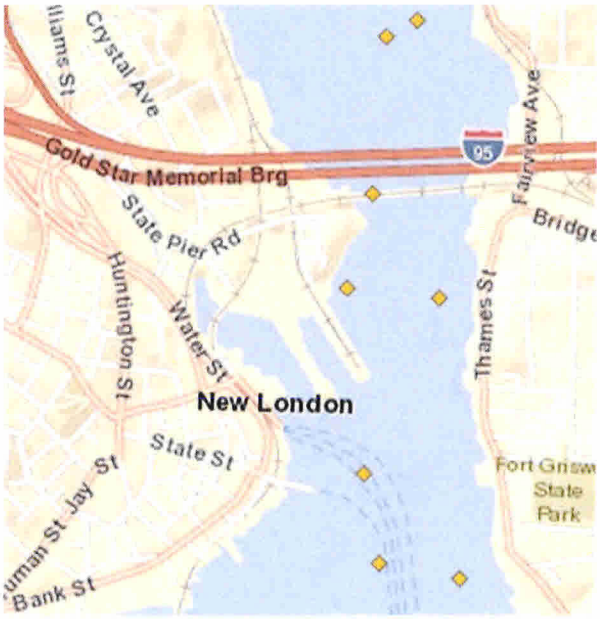


Figure 6-7: Location of State Pier relative to NACCS output points (yellow squares).

Table 6-3: Wave Heights and Periods.

Return Period (years)	Significant Wave Height (ft)	Peak Wave Period (s)
1	2.7	3.1
10	3.5	3.5
25	3.7	3.5
50	3.9	3.5
100	4.1	3.6

6.6.Scour

Scour to be calculated assuming tug assists for all vessels utilizing the terminal. The design tug is assumed to be the *Thameship* owned by the Thames Towboat Company Inc. Tug Specifications include 1,800 HP, 187 gross tonnage and 12.8 ft hull depth.

6.7.Snow

Ground Snow Load, P_g shall be used in accordance with ASCE 7-10. The pier will be considered a fully exposed, flat roof, unheated structure with a snow importance factor, I_s, of 1.1. In accordance with Figure 7-1 of ASCE 7-10:

P_g = 30 psf.

6.8.River Ice (to be confirmed)

Effective crushing strength is 200 psi with a design ice thickness of 9 inches with an importance factor of 1.0.

6.9.Earthquake Design

Earthquake design shall comply with the International Building Code.

6.10. Frost Depth

The Frost Depth at New London is rated at 45" and all water and drainage pipes will be designed to be below this level.

7. GEOTECHNICAL AND SURVEYS

7.1. Geotechnical

7.1.1. Regional Geology

The site is located on the west side of the Thames River tidal estuary, a north-south trending deep river valley that drains eastern Connecticut and central Massachusetts. As one of the deepest natural harbors on the Atlantic Coast, the south-draining Thames River flows past New London into Long Island Sound.

The bedrock in the vicinity of the site is mapped as a complex of folded metamorphic gneiss with bodies of granite, amphibolite, and quartzite. Due to the alternating layers of rock with differing composition and hardness, the bedrock surface elevation in proximity to the site is undulating and quite variable.

The Bedrock Geological Map of Connecticut identified the bedrock as either Hope Valley Alaskite Gneiss consisting of light pink to gray medium- to coarse-grained granitic gneiss or Mamacoke Formation consisting of interlayered light- to dark-gray, medium-grained gneiss. Bedrock outcrops were observed near the site by the intersection of State Pier Road and Thomas Griffin Road.

Overburden (soil) deposits identified above the bedrock surface consist of dense glacial till, granular glaciofluvial meltwater deposits from the retreat of the melting ice margin, more recent (Holocene) deposits of soft organic sediments, and fill or disturbed materials related to the construction of the piers and uplands structures.

7.1.2. Recent Subsurface Explorations

Haley & Aldrich planned and monitored a geotechnical subsurface exploration program consisting of 47 test borings (B101 through B510). The purpose of the exploration was to gather subsurface information for geotechnical analyses. The borings were completed during the period 1 July through 4 October 2019 by New England Boring Contractors of Glastonbury, Connecticut. Additional borings are planned at the railroad property and will be completed on 21 and 22 October.

Twenty-four borings were drilled on land and twenty-three borings were drilled over water on the Thames River. Test borings were advanced using a truck-mounted Mobile Drill B-53 or B-48 or a Diedrich D-120 drill rig using 3-1/4 in. I.D. hollow stem augers or 4-in. dia. HW casing. Standard penetration tests (SPTs) were performed continuously or at maximum 5-ft intervals. The SPTs were performed in general accordance with ASTM D1568 and were conducted with a 2-in. O.D. split-spoon sampler driven 24 in. (where possible) with a 140-lb automatic or safety hammer falling 30 in. The borings ranged from about 13.5 ft to 52 ft deep on land and from approximately 19.5 to 98.5 ft below the mudline on water. Borings were terminated at target depths or at refusal on probable bedrock. Bedrock was cored at B501 through B503.

Explorations were located in the field by Haley & Aldrich using a Trimble GeoHX GPS unit. Ground surface elevations were estimated using contours shown on recent survey data. Soils were classified according to the Unified Soil Classification System (USCS).

New borings are anticipated to be completed in the winter of 2020 by Haley & Aldrich to detail the soils beneath the East Berth area and Southern extent of State Pier, as those areas were not investigated in detail in the initial geotechnical investigations due to the previous orientation of the installation berth.

7.1.3. Previous Subsurface Explorations

Previous subsurface explorations have been completed by others over the years. Previous test borings available are listed below:

- A through F series (1982)
- B series (2019)
- B & C Series (2002)
- HB & SB series (2000)
- M series (2013)
- RW & P series (2000)
- WH series (2000)

7.1.4. Subsurface Conditions

Test borings revealed the following materials, described below in order of increasing depth below ground surface.

Approximate Range in Thickness, ft.	**Generalized Description**
1.5 to 28.5	FILL – Loose to dense brown to gray-brown SAND and GRAVEL with varying amounts of silt (SM, SP/SP-SM, SW/SW-SM, GP/GP-GM, GW-GW-GM). This stratum was generally encountered near the surface in the Uplands, and varying amounts of brick, cinders, coal, asphalt, concrete, cobbles and boulders.
0.5 to 47.0	ORGANIC DEPOSITS – Very soft ORGANIC SILT (OL/OH) with varying amounts of wood fibers and shells. These deposits were encountered in and near the Thames River and can be subdivided into two groups: recent and historic deposits. The recent deposits likely accumulated after previous dredging and the historic deposits are in areas that may not have been dredged. The historic deposits generally contained more shells and fibers.

2.0 to 94.5	GLACIOFLUVIAL DEPOSITS – Medium dense to dense light brown to gray-brown SAND or SAND and GRAVEL with varying amounts of silt (SM, SP/SP-SM, SW/SW-SM, GP/GP-GM, GW/GW-GM) and interbedded layers of SILT with varying amounts of sand (ML). Occasional boulders were encountered. These deposits were encountered under the fill in the Uplands and beneath the organic deposits in the Thames River.
3.0 to >17.0	GLACIAL TILL –Dense to very dense light brown to gray-brown SAND with varying amounts of silt and gravel (SM,SP/SP-SM, SW/SW-SM); or sandy SILT (ML) with frequent cobbles and boulders.
--	BEDROCK – Very hard, fresh, gray to pink medium-grained GNEISS.

7.1.5. Groundwater

Groundwater encountered during drilling in the recent borings in the uplands ranged from approximately El. -3.0 to 1.5, 5 to 31 ft below ground surface. Water levels observed in the borings shortly after drilling may have been influenced by drilling operations, thus may not represent static conditions. Groundwater levels will fluctuate with season, precipitation, and nearby construction activity.

In the Thames River, using the NAVD88 datum, the mean highest high water level (MHHW) is El. 1.21, and the mean lowest low water level (MLLW) is El. -1.84.

7.1.6. Lateral Soil Loads

There are various lateral loads on the bulkheads depending on the soil types and thicknesses. Lateral loading diagram were provided and included: active, passive, seismic, hydrodynamic, and surcharge.

7.1.7. Bearing Capacity

- The bearing capacity of the ground surface to support equipment and materials was evaluated for different surface loads (2,000 to 5,000 psf). The factor of safety used for bearing capacity failure was 3.0. Refer to Section 7.1.7 for settlement.

- Design frost depth = 3.5 ft for structures.

7.1.8. Settlement

The loaded surfaces have been designed for a maximum deflection of 1 in. to allow the SPMT vehicles to traverse the site and to keep stockpiled components from rolling or tipping over. The gradual settlement of the site over time is not a design consideration, rather it will be levelled periodically by adding dense-graded aggregate to the surface. Allowable settlement during the design earthquake is 12 in.

Dredged soils and material from the uplands will be used to backfill between the piers. In order to meet the above criteria, stones columns will be required in the infill area.

7.1.9. Pile Capacity

- Pile Size and Type: 30-in. diameter open-end steel pipe pile, 0.75-in. wall thickness
- Allowable Compressive Capacity: 450 tons
- Ultimate Compressive Capacity: 900 tons
- Uplift and tensile capacities will vary with location, soil type, and pile length.

7.2.Bathymetric Surveys

Bathymetric data used for the site shall use bathymetric surveys conducted by Steele Associates Marine Consultants, LLC. Supplemental data regarding navigation shall be taken from the NOAA Nautical Chart No. 12372.

7.3.Topographical and Boundary Surveys

Topographic and boundary data used for the site will be collected by GM2 Associates, Inc. The surveyor is to provide services for the site as defined in the Surveying Scope of Work.

8. STRUCTURAL

8.1.Design Vessels

Design vessels include the Delivery Vessel and the Installation Vessel. See Appendix B for Vessel Data.

8.1.1. Delivery Vessel

The Delivery Berth shall accommodate general cargo vessels with the characteristics as shown in Table 8-1. Clarkson's World Fleet Register is used to collect information on general cargo vessels. Vessel characteristics are banded by confidence level for the approximately 350 vessels in the database which are between 10,000 and 20,000 Deadweight Tonnage (DWT). For example, 95% of the 350 vessels are less 515 ft (157 m) Length Overall (LOA). Displacement is estimated as 1.25 x Dead Weight Tonnage.

Ørsted provided the SAL Type 176 High-speed heavy cargo vessel as a design vessel at the delivery berth (Appendix B). This vessel is consistent with the 95% design vessel given below.

Table 8-1: Delivery Berth Design Vessels

Name	50%		75%		95%	
Dead Weight Tonnage	12,000 mt		14,000 mt		17,500 mt	
Displacement	16,479 mt		18,181 mt		22,363 mt	
Length Overall	402 ft	122 m	433 ft	132 m	525 ft	160 m
Maximum Draft	28 ft	8.7 m	30 ft	9.2 m	32 ft	9.8 m
Beam	66 ft	20 m	70 ft	21 m	84 ft	26 m

8.1.2. Installation Vessel

The Installation Berth shall be designed for the two named vessels with the characteristics shown in Table 8-2. The Seajacks Scylla is shown in Figure 8-1. Vessel details are given in Appendix B.

Table 8-2: Installation Berth Design Vessels

Name	Seajacks Scylla		Seajacks potential future build	
LOA	456 ft	139 m	473 ft	144 m
Beam	164 ft	50 m	184 ft	56 m
Moulded Depth	36 ft	11 m	38 ft	11.5 m
Hull Draft	20 ft	6 m	21 ft	6.4 m
Spud-can Draft	26 ft	7.9 m	28 ft	8.5 m
Summer Displacement[1]	36,808 mt		40,489 mt	
Windage Area, Hull[1,2]	15,975 ft^2	1,484 m^2	17,573 ft^2	1,632 m^2
Windage Area, Crane Boom and Legs[1,2]	775 ft^2	72 m^2	853 ft^2	79 m^2
Windage Area, Cargo[1,2]	14,608 ft^2	1,357 m^2	16,069 ft^2	1,493 m^2

Name	Seajacks Scylla		Seajacks potential future build	
Mooring Line Minimum Breaking Load[3]	161 kips	73 mt	494 kips	224 mt
Mooring Line Type	Ørsted to Confirm		HMPE SK78 Rope	
Mooring Line Diameter	2.36 in	60 mm	2.36 in	60 mm
Leg Length	345 ft	105 m	358 ft	109 m
Number of Legs	4		4	
Leg Types	Triangular Steel Truss		Triangular Steel Truss	

Note 1: Windage Area Parameters for Seajacks NG 16,00X-SJ are assumed to be 10% larger than Seajacks Scylla.

Note 2: Windage areas are given for wind perpendicular to the longitudinal axis of the vessel (beam-on wind) and at summer draft.

Note 3: Mooring Line Type and Minimum Breaking Load for Seajacks Scylla.



Figure 8-1: Seajacks Scylla (Source: www.seajacks.com)

8.2.Marine Structures Design Criteria

8.2.1. Risk Category

The marine facilities shall be designed to Risk Category II per ASCE 7-10 Table 1.5-1.

8.2.2. Design Life

The design life of the marine facilities shall be 50 years. Consumable components such as fenders and cathodic protection anodes shall be replaced per the manufacturer's recommendations. Design life represents the physical condition of the marine facility and its ability to perform its function as originally designed assuming regular inspection and maintenance activities are carried out.

8.2.3. Deck Elevation

The top of deck elevation for all marine structures is +9 ft NAVD88, per direction by Owner. It is noted that the FEMA Base Flood Elevation (BFE) for the facility is +11 ft NAVD88. Per City of New London requirements, all critical infrastructure shall be located a minimum of 2 ft above the BFE.

8.2.4. Loads

8.2.4.1. Dead Load (D)

Dead load shall include the self-weight of the structure including any permanent attachments.

- Steel: 490 pcf
- Concrete: 150 pcf
- Dense Graded Aggregate: 145 pcf
- Concrete Pavers: 150 pcf
- Ice: Per ASCE 7-10, ice thickness is ¾" with unit weight of 62.4 pcf.

8.2.4.2. Earth Pressure (H)

Design earth pressure shall be per geotechnical recommendations from Haley & Aldrich. Bulkhead walls shall be designed for a water level differential of 1.5 feet due to tidal range and 4 feet due to groundwater saturation from the rain design event (100-yr). An underdrain system shall be designed to mitigate water level differential during the 100-yr rain design event.

8.2.4.3. Buoyancy Load (B)

Buoyancy load shall be considered using a seawater unit weight of 64.1 pcf. All new structures shall be designed to be submerged in an extreme event.

8.2.4.4. Live Load (L)

The following live loads shall be considered:

Uniform live load shall be as follows and as shown in the Facility Use and Logistics Plan in Appendix C.

- Delivery Berth Heavy Lift Area: 5,000 psf
- Uplands Area and Storage Area between CVRR and State Pier: 3,000 psf
- Existing State Pier: 1,000 psf
- Equipment Storage Zone within 50 ft of CVRR Pier western limit and within 30 ft of Northwest Bulkhead: 300 psf
- Transport Corridor on top of existing CVRR Pier: AASHTO HS-20 Truck
- Installation Berth Heavy Lift Area: 5,000 psf

Vehicular loads include an AASHTO HS-20 truck with a 15% impact factor applied to design. In conjunction with the vertical loading, a lateral load equal to 10% of the vertical load shall be applied.

8.2.4.5. Wind Load (W)

Wind loads shall comply with ASCE 7-10 requirements. Design wind speed shall be 134 mph (3 second gust at 33 feet above ground). Design wind speed during ice conditions shall be 50 mph (3 second gust at 33 feet above ground).

8.2.4.6. Current Load (C)

Current forces on structural pipe members shall be determined in accordance with API RP 2A. Lift, drag and mass coefficients shall be determined for each member taking into accounts its cross-section and inclination and marine growth. Current forces on vessels shall be determined in accordance with the OCIMF Mooring Equipment Guidelines (MEG4) for static mooring analyses. Design current speed shall be 2.0 knots.

8.2.4.7. Berthing Load (Be)

PIANC Guidelines for the Design of Fenders Systems (2002) shall be used to determine the required berthing energy for the design vessels, size of the fender system, and the berthing load. The structure shall be designed for the maximum fender load, including a +/- 10% tolerance in fender performance. The fender panel shall include ultra-high molecular weight (UHMW) facing to provide a maximum coefficient of friction of 0.2. Horizontal and vertical forces on fender system shall be considered based on friction between the vessel and fender panel.

8.2.4.8. Mooring Load (M)

The vessel with the strongest mooring line minimum breaking load (MBL) should be used to determine the bollard capacity safe working load (SWL). Design of the mooring structures shall be per PIANC WG 153. For mooring points that accommodate more than one mooring line, the minimum horizontal force for the design of the mooring structure shall be:

$$Fz = SWL\ [1 + 0.6\ (n - 1)]$$ (per PIANC WG 153 Equation 7-1)

where,

Fz = Total horizontal force on the mooring structure

SWL = Capacity of the largest mooring line

n = Number of mooring lines

The factor of 0.6 is based on OCIMF Mooring Equipment Guidelines and winch brake rendering. This mooring design force shall be compared to the maximum mooring analysis results for operating conditions, factored by a 1.6 load factor per UFC 4-152-01. The largest of these two values shall be used for design.

The mooring load shall be applied 180 degrees horizontally and at an angle of +25, 0, and -25 degrees to the horizontal plane.

8.2.4.9. Earthquake Load (E)

If no ground improvement is performed, the hydraulic fill between the State Pier and CVRR Pier would be liquefaction susceptible during the design earthquake, and seismically-induced settlement would be about 2 to 4 ft. Accordingly, stone columns are recommended to mitigate seismically-induced settlement during the design earthquake.

At the uplands and Northeast Bulkhead, site class is D. At the pier infill and end of the pier Bulkhead, site class is E after improving the hydraulic fill that will be placed between the piers.

The State Pier reconstruction (East Installation Berth) will be designed with either piles supported on the bedrock, or fill material capable of withstanding the design earthquake loads.

In accordance with the 2018 State of Connecticut Building Code, the seismic soil design criteria are as follows:

S_s = 0.161 g

S_1 = 0.058 g

8.2.5. Load Combinations

Load combinations either using allowable stress design (ASD) or load-resistance factor design (LRFD) shall be per UFC 4-152-01 (2017). Note that Wind and Current loads shall be operating loads when

combined with operating loads (Live, Mooring and/or Berthing). Wind and Current loads shall be extreme loads during vacant (non-operating) conditions.

8.2.6. Serviceability

Concrete exposed to seawater or seawater spray shall be designed for a maximum crack width of 0.01 inch under service loads. Calculation of crack width shall comply with ACI 224R.

8.2.7. Material Properties

All materials shall comply with latest applicable ASTM specifications. Concrete shall be normal-weight concrete with a minimum 28-day compressive strength of 5,000 psi, maximum water-to-cementitious ratio of 0.4 and a minimum clear cover to the reinforcing steel of 3-inches. Steel piles exposed to saltwater shall be protected using a minimum of two of the following strategies:

- Marine grade coating applied with strict conformance to specifications including inspection and repair of all coating defects and damages
- Cathodic protection anodes
- Pile wrap or jacket
- Additional "sacrificial" wall thickness
- Encased in concrete (i.e. concrete fascia)

Steel piles fully embedded in soil shall have additional sacrificial wall thickness.

All bolts, nuts and washers shall be hot dip galvanized per ASTM A153. Dissimilar metals shall be isolated by appropriate means to avoid creation of galvanic cells.

Box shaped members shall be designed such that all inside surfaces may be readily inspected, cleaned, and painted or shall be closed entirely, except when hot dip galvanized.

8.2.8. Corrosion Rates

Corrosion rates for steel elements were obtained from the Waterfront Facilities Inspection and Assessment, ASCE Manuals and Reports on Engineering Practice No. 130, 2015; Section 4.6.2:

- Soil embedded zone (mudline down): 0.001 in./year;
- Immersed zone (between LAT and mudline): 0.004 in./year; and
- Splash and tidal zone (LAT up): 0.005 in./year.

Steel elements located away from the water shall be designed for an Atmospheric zone rate of 0.0004 in./year.

9. CIVIL

9.1.Design Parameters

9.1.1. Stormwater Design

Stormwater management design is based on the Connecticut Department of Energy & Environmental Protection, (CTDEEP) guidelines. Storm drainage conveyance system will be sized to transmit the 10-year storm through the drainage system.

For the runoff reduction and water quality treatment for the site, we are proposing a combination of the deep sump catch basin and hydrodynamic separator as Best Practice Management (BMP), since both practices are designed based on the Water Quality flow (WQf) to treat the entire 1" of the water quality. Both practices will maximize the runoff reduction and provide the water quality treatment without the need to retain the ½WQv.

Underground storage or infiltration are not feasible at this site due to the groundwater levels and proximity to the river.

Drainage at the berths will be collected in trench drains and directed to the hydrodynamic separators and discharged at four locations. Upland drainage will be collected in a series of sump inlets and directed towards the stormwater treatment. Outfalls will include a tidal valve and trash rack where appropriate. Where the discharge is close to grade, rip-rap scour protection will be included.

Structures will be designed to handle the heavy-duty equipment wheel loads called out in the geotechnical Basis of Design. No structures will be placed in the heavy lift areas near the berths.

9.1.2. Roadway Design

Roadways will be designed in accordance with Connecticut Department of Transportation (CTDOT) standards. The design speed for all roadways on the terminal is assumed to be 10 miles per hour. Horizontal curves and turns will be designed for 75' long semi-trucks, longer than typical on road semi-trucks to allow for specialized equipment to access the port.

9.1.3. Parking

The parking lot for employees and visitors will be designed for a total of 60 parking spaces, with 2 handicap accessible parking spaces at each lot.

9.1.4. Site Grading Design

The State Pier elevation is +9.0 NAVD88 at the outboard face and along the landside face. This elevation is being kept as the nominal grade where feasible for the full terminal. Drainage from the outboard face will be directed inland to a minimum elevation of +8.0 NAVD88. Drainage at the berths will be collected in trench drains and directed to the storm drain system where it will be collected, treated, and discharged.

Within the yard, the maximum grades will be 1% and minimum grades of 0.5%. The incoming road to the site will have a maximum of 4% grade in order to meet terminal grades in an efficient manner.

9.1.5. Erosion and Sediment Control Design

Erosion and Sediment Control is designed in accordance with CTDEEP Connecticut Guidelines for Soil Erosion and Sediment Control, (2002). Runoff due to grading and any disturbance will be controlled and directed towards appropriate sediment controls. Sediment basins will be utilized during construction as the work is phased. Perimeter sediment controls will consist of geotextile silt fences and entrances to the site will be protected with stabilized construction entrances. Where existing inlets occur and as inlets are constructed, at grade inlet protection will be installed. Turbidity curtains will be utilized for dredging and where any over water demolition occurs.

9.1.6. Fire Protection

The fire protection design and equipment specifications shall meet the provisions of NFPA 307. Firewater will be supplied by city water lines. No water tower is expected at this time, as the existing terminal has hydrants and is assumed to have sufficient pressure and capacity to supply the proposed hydrants. A fire main will be constructed from the incoming water meter and loop within the yard with fire hydrants located at the high mast lights and spaced as required to protect the site and avoid high traffic areas. Maximum spacing of hydrants is assumed to be 300 feet, pending fire marshal approval. Maximum hydrant spacing is assumed to be 300 feet or 150 feet from a dead-end area, per NFPA 307 guidelines.

Existing Warehouse 2 is currently sprinklered and the water mains will be maintained that feed the sprinkler system.

9.1.7. Potable Water

Potable water will be provided to the office area located on the northern side of the terminal and to the office area located on the southern end of the existing CVRR pier. The potable water is assumed to be able to be provided from the same water lines provided for fire protection.

9.1.8. Sanitary Sewer

No new sanitary sewer lines are anticipated. The existing Warehouse #2 sanitary lines will be maintained, but all other existing sanitary sewer lines will be removed. The proposed office areas are assumed to be served by sanitary tanks that must be emptied by the terminal operator. No sanitary services will be provided for the vessels at berth.

9.1.9. Demolition

The demolition scope of this project is extensive. With varying grades, the site is being leveled to approximate 9' elevation NAVD88. In general, all buildings are being demolished except for Warehouse #2 located at the Northwest end of the property. All mechanical utilities including sanitary sewer, stormwater, and potable water are to be demolished and removed except for those leading to Warehouse #2, which remains. Existing fire hydrants will be demolished.

9.1.10. Railroads

The existing rail track that provides access to State Pier shall be removed and replaced with at grade rail track that allows for SPMTs to cross the rail at any point between the State Pier and Warehouse #2. All other rail on site is to be removed.

9.1.11. Landscaping

No landscaping is assumed to be provided for aesthetics. Details for stormwater management and erosion and sediment control related items will be provided (such as seeding requirements), but no trees, shrubs, etc. are assumed to be required for this project. It is assumed that no local codes or ordinances relating to aesthetics apply for the Port Property.

9.1.12. Signage

Traffic signs will be in compliance with the Manual for Uniform Traffic Control Devices (MUTCD) and Connecticut Department of Transportation (CTDOT) standards. No other signs (ie: entrance signs) are expected to be needed at this time.

10. ELECTRICAL

10.1. Design Requirements

The terminal will be used to store, stage and erect wind turbines for offshore wind farms. The existing utility service is 13.2 kV. The site will require European voltages (e.g. 690V and 400V) as well as standard US voltages. All power will have a frequency of 60hz. Total estimated load for the site (not including shore power for ships) is 4500 kVA. Transformers and electrical equipment will be placed throughout the site to provide the required electrical services. The site will be lit with high mast lighting to facilitate nighttime operations.

10.2. Design Parameters

10.2.1. Demolition

The demolition scope of this project is extensive. In general, all buildings are being demolished except for Warehouse #2 located at the Northwest end of the property.

There are two overhead electrical (utility) distribution lines that enter the site from State Pier Rd. The overhead line East of the warehouse (running along the length of the existing entrance road) will be demolished to the overhead distribution running adjacent to State Pier Rd. The overhead distribution West of the warehouse will be demolished to the pole adjacent to the warehouse. The distribution from that point that feeds the warehouse will remain as well as provide electrical service for the terminal redesign. The utility, Eversource, will demolish their own facilities (e.g. overhead electrical, medium voltage transformers and remove conductors from underground conduit). All existing electrical equipment and conductors not previously noted are to be demolished by the contractor. The ductbank down to 3 feet below the existing grade shall be removed.

All existing light masts are to be demolished.

10.2.2. General Site Layout and Distribution

The main electrical equipment will be outdoor rated to minimize space, costs and the need for additional buildings on a site that is designed to primarily be free of obstructions for operations. The design of the equipment will include mitigations for the environment, particularly the harsh Connecticut winters.

Locations of electrical distribution throughout the site will be coordinated with other utilities. Main electrical system ductbanks will be encased in concrete including where the duct bank is installed under other large utility systems (drainage and/or gravity sewers). Other large distribution items such as electrical vaults will be evaluated during final design and the applicable areas developed to accommodate the size, conduit networks, and foundation requirements for these facilities.

Primary meters will be provided at the utility point of service (overhead pole). Medium voltage (13.2 kV) will be distributed throughout the site to the areas containing electrical equipment. These areas comprise of mostly of buildings and wind turbine equipment. The general areas and required voltages are:

- Nacelle Area (120/208V, 400V, 690V)
- Warehouse and Office/Welfare Area (120/208V, 480V)
- Vessel Loading Area (120/208V, 400V, 690V, 6.6kV)
- High Mast Lighting Distribution Area (120/208V, 480V)

10.2.3. Nacelle Area Power

The nacelle area comprises the largest site electrical load for the terminal with an estimated load of 3200 kVA. The area also requires various voltages to meet the requirements of the equipment being stored. The utility provided is Eversource. An underground feed will be provided to the area from the existing 13.2 kV Eversource overhead service along State Pier Rd. A primary meter will be provided for this feed and the Main Office Area Power.

Most (and the largest) loads in this area require 690V (a common European voltage). A 3000 kVA, 690V 3ph pad-mounted, loop-fed transformer will be located along with the rest of the electrical equipment in the Northwest corner of the nacelle area. A 3000A, 690V stainless steel NEMA 3R pad mounted switchboard will be powered. The switchboard will feed the 690V loads directly. Disconnect switches will be provided as required adjacent to each load.

The nacelle area also requires 400V. The medium voltage circuit will be extended from the 690V transformer to a 400V, 300 kVA pad-mounted transformer. This transformer will power a 600A switchboard. This switchboard will power the 400V loads as well as provide power to a 30 kVA, 3ph transformer feeding a 125A panel for the 120/208V loads.

10.2.4. Warehouse and Office / Welfare Power

The existing warehouse is fed from an adjacent overhead feed and pad-mounted transformer that will remain. The warehouse has a 277/480V, 3ph 800A main switchboard. Power for the office and welfare area to be constructed West of the Warehouse will originate from this existing switchboard.

Construction adjacent to the warehouse will include an office building, welfare area and a parking lot with lighting and electric vehicle charging stations. The estimated load for the office / welfare area is approximately 100 kVA. The existing switchboard accommodates that load while providing for the needed capacity for the loads within the warehouse. The switchboard circuits shall be modified as necessary for the new loads. Transformers will be provided as necessary to power the 120/208V office and welfare areas. The existing panels in the warehouse will power the parking lot lighting.

10.2.5. Main Office Area Power

The main office area includes the main office building, a welfare area and a parking area with lighting and electric vehicle charging stations. The load of the area is approximately 120 kVA. The power feed to this area will originate from overhead lines along State Pier Road and extended underground along to the main office area. Pathways (likely two 4" conduits) from this location to the office area will be provided. The electrical service is estimated to be 400-600A, 120/208V 3ph. Electrical equipment will be provided by the office building vendor. The building vendor will coordinate with Eversource to establish the service.

10.2.6. Vessel Loading Area Power

The vessel loading area is the Southern end of the terminal. Electrical infrastructure for this area includes power for the towerpacks as well as for the office and welfare area. The approximate electrical load of this area is 630 kVA with voltages ranging from 208V up to 690V. The service for the vessel loading area will originate from the existing 13.2 kV overhead distribution near the warehouse. A primary meter will be provided for this feed and the High Mast Lighting power distribution.

An underground medium voltage feed will be provided to a 300 kVA, 690V 3ph pad-mounted, loop-fed transformer located in the Southwest corner of the CRVV pier. A 350A, 690V stainless steel NEMA 3R pad mounted panelboard will be powered. The panelboard will feed the 690V loads directly. Disconnect switches will be provided as required adjacent to each load.

The vessel loading area also requires 400V. A circuit will be provided from the 690V switchboard to a 225 kVA, 400V secondary 3ph pad-mounted transformer feeding a 400A panel for the 400V loads.

Finally, the vessel loading area requires 120/208V. The medium-voltage circuit will be extended from the 690V transformer to an 208V secondary, 150 kVA pad-mounted loop-fed transformer. This transformer will power an 600A panelboard for the 120/208V loads.

10.2.7. Vessel Loading, Shore Power (Cold Ironing)

Shore Power (cold ironing) requires power to be transformed down to the required shore power medium voltage (i.e. 6.6 kV). A 3500 kVA, 6.6 kV, 3ph transformer will be located adjacent to the vessel loading area electrical equipment. The service for the shore power transformer will originate from one of the adjacent loop-fed transformers. A medium voltage fused disconnect switch will be fed from the secondary side with 400A fuses for connection to the ship. The disconnect will be located on the Southwest edge of the pier adjacent to the berth.

10.2.8. High Mast Lighting Distribution Area

Site lighting will primarily be from HMLs with low level light poles (less than 30' tall) provided in the parking areas as needed. All exterior lighting will be provided by the site developer (e.g. not leased).

The main pier will be lit from the West side only in order to provide clearance for the crane swing radius. The HML design goal is 5 fc thought out most of the operational spaces where equipment lifts occur.

Just North of the site is an Amtrak rail line and I-95. Directly across the Thames River to the East there are residences. Therefore, glare and light pollution minimization is critical to the site. MUSCO LED high mast lighting will be used as they are the industry leaders in light performance while achieving cutoff and glare reduction. High mast lighting will be supported on CIDH (cast in drilled hole) shafts. MUSCO has the option to provide foundations for their poles. This will be the basis of design.

Power for the HML will originate from an electrical rack located at the head of the West side of the CRVV pier. This rack will include a 225 kVA, 480V 3ph pad mounted transformer feeding a 400A, 480V panel, lighting control panel and a 75 kVA, 3ph transformer feeding a 225A panel for the 120/208V

loads. The 225 kVA transformer will be loop-fed from the medium voltage feed that will continue to the Vessel Loading Area. Power to the HMLs will originate from this central location. The HMLs and the associated electrical rack will include 120V and 208V receptacles for field use.

In addition, 120V dimming circuits will be run to the HMLs to provide light levels for operations and reduce lighting for security during periods when operations do not require it.

10.2.9. Miscellaneous Power Needs

The Selden III ferry will be docked on site during the winter (off-season) months. This vessel requires a 125/250 volts, 50-amp NEMA SS-2 receptacle. This will be powered from the warehouse and office/welfare area power distribution.

The touch up paint tent and various containers will be located on site. They require 120/208V and will be powered from the distribution described in the sectionsabove.

10.2.10. Site Communications

Site communications is limited to infrastructure provided for future use. Conduit for fiber to the HMLs will be provided for cameras and wireless access points. The site main data frame (MDF) room is expected to be located in the main office building or the warehouse. Communications conduit (typically two 2" conduits) between the MDF and each of the buildings on site will be provided.

Appendix A

Project Phasing

State Pier New London Phase 1 and Phase 2 Construction Activities

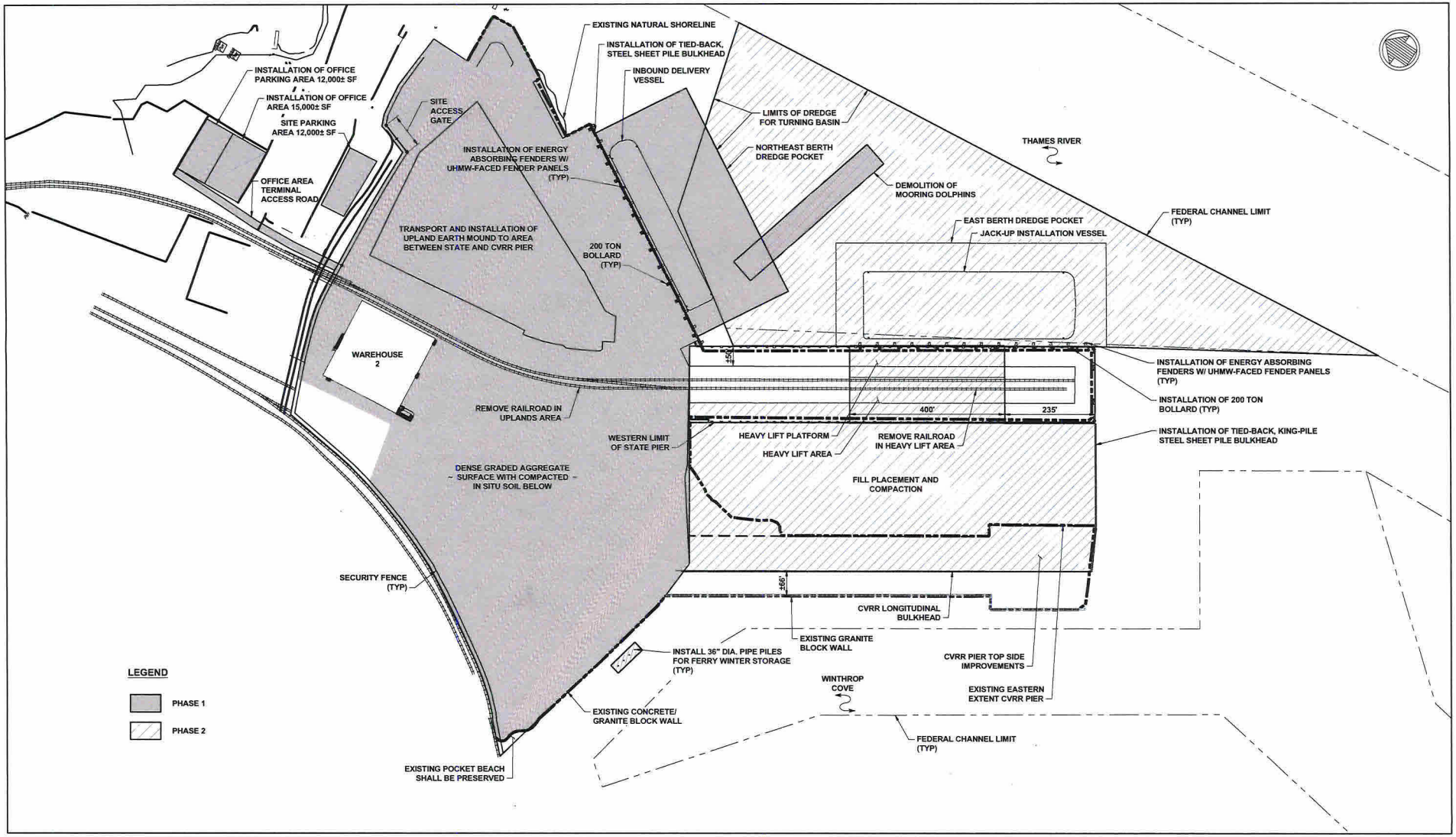
The project will be designed and let out to bid with one set of design documents that incorporates all the required infrastructure to upgrade the existing facility into a wind turbine generation port facility. However, the project can be broken down into two distinct phases. Phase 1 includes the uplands work to the existing bulkhead lines, and the dredging required for the northeast berthing pocket. Phase 2 includes work on the existing State and CVRR piers, the placement and compaction of fill between the two piers, and the dredging required for the turning basin and the east berthing pocket.

Phase 1 Work

1. Demolition of various buildings
2. Demolition of existing site utilities
3. Demolition of the on terminal north-south section of State PierRoad
4. Demolition of Northeast Annex
5. Demolition of existing mooring dolphins
6. Installation of retaining wall to support altered vehicle entryconfiguration
7. Installation of potable and fire suppression water systems to meet sites needs
8. Grading and leveling of uplands
9. Installation of storm water management system and associated outfalls
10. Over-sheeting of Northeast Bulkhead
11. Installation of heavy lift, pile supported reliving platform directly inshore of the Northeast Bulkhead
12. Installation of fendering and bollards at Northeast Bulkhead
13. Dredge of Northeast Bulkhead berthing pocket
14. Installation of perimeter security fencing, new gated entrance and security cameras
15. Installation of high mast lighting grid
16. Installation of electrical services to meet site requirements
17. Installation of dedicated outlets for nacelles
18. Installation of dense graded aggregate topping surface on uplands area

Phase 2 Work

1. Installation of fill between the CVRR and State Piers
2. Dredge of east face State Pier Berthing pocket
3. Dredge of turning basin
4. Installation of stone columns in fill area between the piers
5. Installation of longitudinal bulkhead in CVRR pier
6. Installation of closure bulkhead between CVRR and State Piers
7. Raise finished surface of CVRR Pier
8. Installation of dense graded aggregate topping surface on CVRR, fill between the piers and heavy lift platform in State Pier
9. Upgrade of fendering and bollards at east face State Pier install vessel berth
10. Installation of steel sheet pile to enclose the State Pier heavy lift platform
11. Installation of mooring bollard SE corner of State Pier
12. Seabed preparation for install vessel jack-up legs
13. Installation of high mast lights
14. Installation of cold ironing infrastructure



Connecticut PORT AUTHORITY

BASIS OF DESIGN
ISSUED: 1/20/2020
NOT TO BE USED FOR CONSTRUCTION

moffatt & nichol

PHASING PLAN
NEW LONDON, CONNECTICUT

120' 0' 120' 240'
SCALE: 1"=120'

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Appendix B

Vessel Data

Offshore Wind Installation

The Vessel Scope

RESTRICTED

Inbound

- ❑ Various types of Multi-purpose, Project and Heavy-lift tonnage with drafts 8-10 meters & quay length of 180-220m
- ❑ Long components transported as deck-cargo and some under-deck
- ❑ Shore cranes as alternative to self-geared vessels
- ❑ Lifting gear (yokes & spreaders) subject to component
- ❑ Handling equipment subject to component & method



Outbound

- ❑ Various types of vessels and barge assets (WTIV) with drafts of 8-10 meters (sea-bed preparation for jacking ops)
- ❑ Port stay also required for mob / de-mobilization
- ❑ Quay length of 180-200m
- ❑ Permanent quayside set-up during installation phase



Ocean Wind
An Ørsted Initiative

Ørsted

SHIP'S PARTICULARS

TYPE 176

High-speed heavy cargo vessel



SAL Heavy Lift GmbH • Brooktorkai 20 • 20457 Hamburg/Germany • Phone: +49 40 380380-0 • www.sal-heavylift.com
– A member of the Harren & Partner Group –

SHIP'S PARTICULARS
TYPE 176

MV Regine	2009/09	**Owner:**	SAL Shipping UG (haftungsbeschränkt) & Co. KG – MS REGINE
MV Trina	2008/11	**Owner:**	SAL Shipping UG (haftungsbeschränkt) & Co. KG – MS TRINA
MV Anne-Sofie	2008/04	**Owner:**	SAL Heavy Lift GmbH
MV Frauke	2008/02	**Owner:**	SAL Heavy Lift GmbH

Operator:	SAL Heavy Lift GmbH
Technical Manager:	SAL Ship Management UG (haftungsbeschränkt) & Co. KG
HSE Manager:	SAL Ship Management UG (haftungsbeschränkt) & Co. KG

Classification:	HULL GL+100 A5 G SOLAS II-2 Reg. 19 General Cargo Ship, Strengthened for Heavy Lift Cargo Machinery MC AUT
Shipyard:	J.J. Sietas KG

Length over all:	159.80 m	**Speed @ 85% MCR:**	18 kn
Length between perps.:	148.31 m	**Air draught (jibs in rest.):**	40.5 m
Breadth moulded:	24.00 m	**Air draught (jibs upright):**	62.9 m
Breadth over all:	24.34 m		
Depth moulded:	13.20 m		
GT (int'l 69):	12 950 t		
NT (int'l 69):	4 647 t		
GT (Suez):	13 481 t		
NT (Suez):	12 827 t		
NT (Panama):	10 879 t		

(Summer)		*(Summer – Open Top)*	
Draught:	9.00 m	**Draught:**	7.50 m
Deadweight:	12 007 t	**Deadweight:**	7 216 t
Freshwater Allowance:	170 mm	**Freshwater Allowance:**	149 mm
Freeboard:	1.528 m	**Freeboard:**	3.108 m
Displacement:	21 400 t	**Displacement:**	16 700 t

Capacity BW:	6948.63 m³
Capacity GO:	224.04 m³
Capacity HFO:	1623.50 m³
Capacity FW:	224.50 m³
Cargo gear:	2 cranes, each 700 t SWL (in combination 1400 t); 1 crane 350 t SWL; Auxiliary hoist 2 x 60 t SWL; 1 x 40 t SWL.
Hatch cover:	MacGregor hydraulic operated combined folding type and lift and roll type
Number of holds:	1
Number of hatches:	1
Dimension of hold:	107.10 x 17.00 x 13.10 m
Volume of hold:	19 299 m³
Bale capacity:	635 982 cuft
Free deckspace:	3128 m²

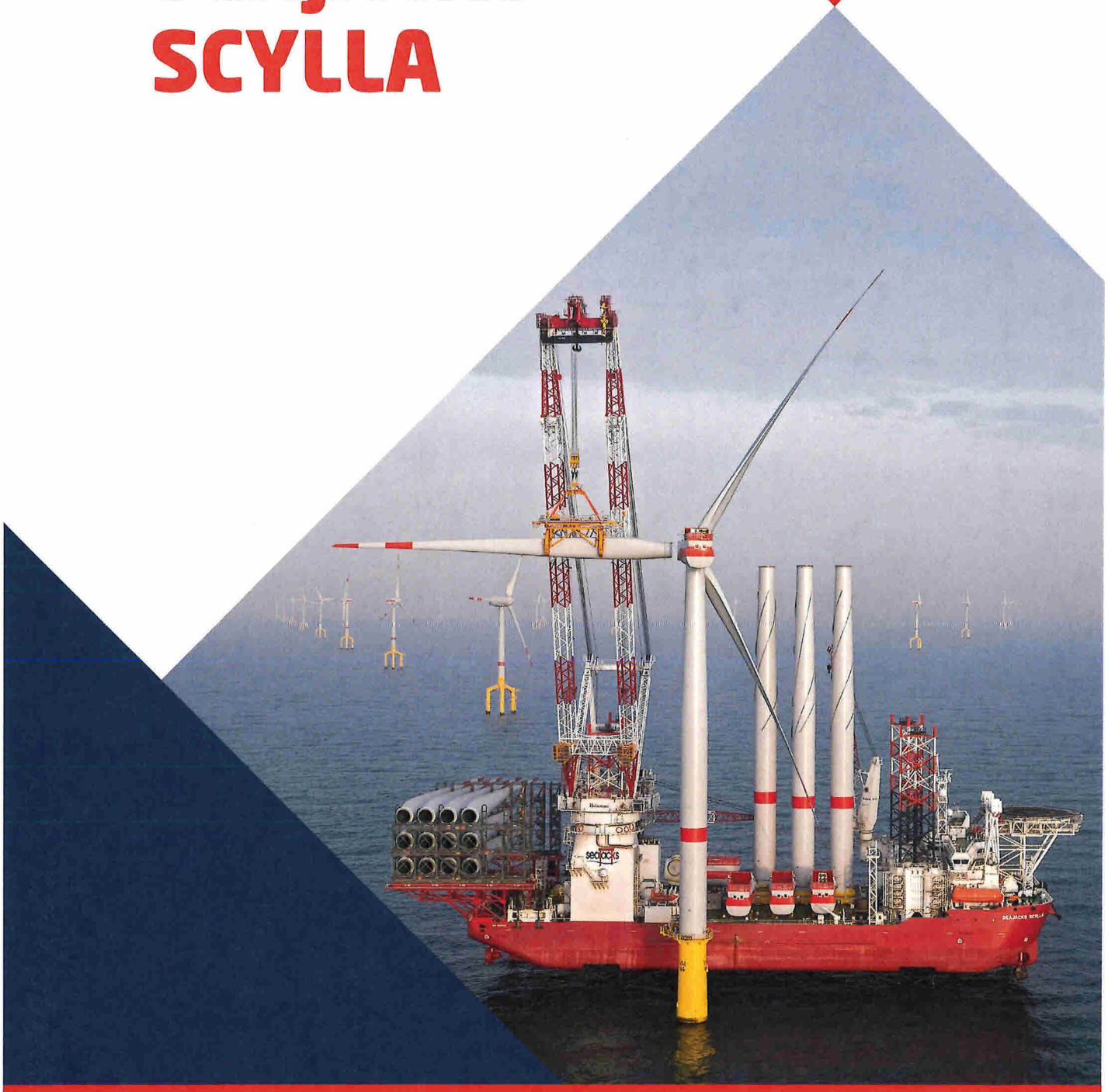
Main Engine:	MAN B & W 9L 58/64; 12 600 kW
Rudder:	Flap type spade rudder (high efficiency rudder)
Bow Thruster:	Brunvoll 900 kW (1224 hp)
Certifications:	MANAGEMENT SYSTEM CERTIFICATION DNV·GL ISM=ISO 9001 ISO 14001=OHSAS 18001 ENVIRONMENTAL PASSPORT DNV·GL

Prelim Seaway Approval for the Great Lakes (Canada/U.S.)

All details are given in good faith but without guarantee of accuracy and completeness

seajacks

SEAJACKS SCYLLA



seajacks.com

SEAJACKS SCYLLA

The newest member of the Seajacks fleet, delivered in October 2015, is a state of the art wind turbine foundation & installation vessel. With the largest deck space, leg length and lifting capacity of our fleet, Scylla has been specifically designed for deeper water larger wind farm components.

CLASSIFICATION AND RULES

Type:	GustoMSC NG14000X
Built:	Q4 2015
Yard:	Samsung Heavy Industries
Class:	ABS A1 Self-elevating Unit + AMS + ACCU + DPS 2, Self Propelled, Helideck + Wind IMR
Flag:	Panama

MAIN DIMENSIONS

Hull

Length (Maindeck:	139m
Width:	50m
Hull depth:	11m
Draft:	6m to hull (7.8m inc. Spudcan Pins)
Main deck area:	4600m²
Main deck load capacity:	10t/m²

Helideck

Helicoptr type:	Sikorsky S92 (12.8t) Sikorsky S61 or equivalent
Diameter:	22.2m

Legs and Spudcans

Number/Type:	4/triangular truss
Footing type:	Spudcan with pin
Spudcan area:	200m²
Leg length:	105m

Jacking System

Type:	Rack and pinion
Drive:	Electric/VFD
Elevating speed:	0.8m/min
Pre-load capacity per leg:	14000t pre-load holding/leg
Maximum Jacking load:	7680t/leg

CRANES

Main crane mount wrap-around the starboard aft leg.

Boom length:	105m(approx)
Capacities:	1500t at 15-31.5m radii
Floating Condition:	800t at 40m radius
Aux Hoist:	600t at 15-55m radii
Whip Hoist:	(rated 5t for man-riding 100t at 17-92.8m radii)

Auxiliary crane 2 x lattice boom pedestal cranes mounted fwd and aft port side.

Boom length:	46.5m
Capacities:	Car go 50t at 10-45m radii. Man-riding, 2t at 10-45m radii.

SAFETY SYSTEMS

Fire and gas detectors throughout the whole vessel in full compliance with MODU requirements.

2 x 130 person capacity totally enclosed survival crafts located on port and starboard side (200% total complement).

Inflatable life rafts for 200% of total complement (260).

1 x MOB/Fast Rescue diesel 300hp..

PROPULSION UNITS

Thrusters:	2 x 3000kW retracable - fwd
Design Speed:	3 x aft thrusters - 10 knots 6 thrusters - 12 knots

Control Systems

Dynamic Positioning Control System (DPCS) according to ABS DPS 2.

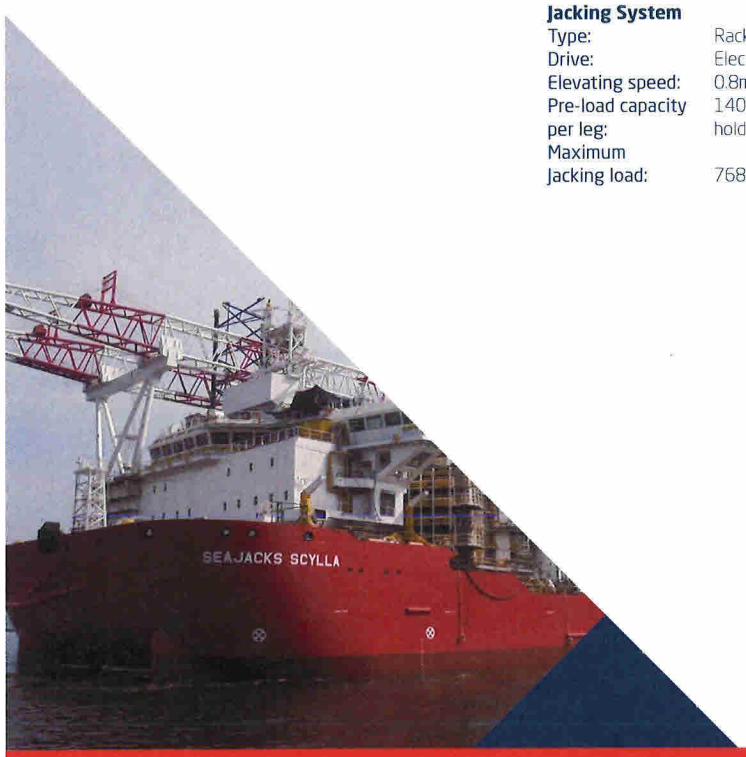
Navigation and communication systems, according to IMO and DSI requirements.

ACCOMMODATION AND FACILITIES

Total complement:
130 persons in 67 cabins.
Cabins equipped with en-suite shower/toilet, telephone, TV/DVD and network connections.

Facilities

Galley, mess-room, stores, laundry, recreation rooms, gym, TV-rooms, radio room, change-rooms, sickbay, client meeting rooms, offices and workshops.



Seajacks UK Limited
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Great Yarmouth, Norfolk, United Kingdom NR30 3QR

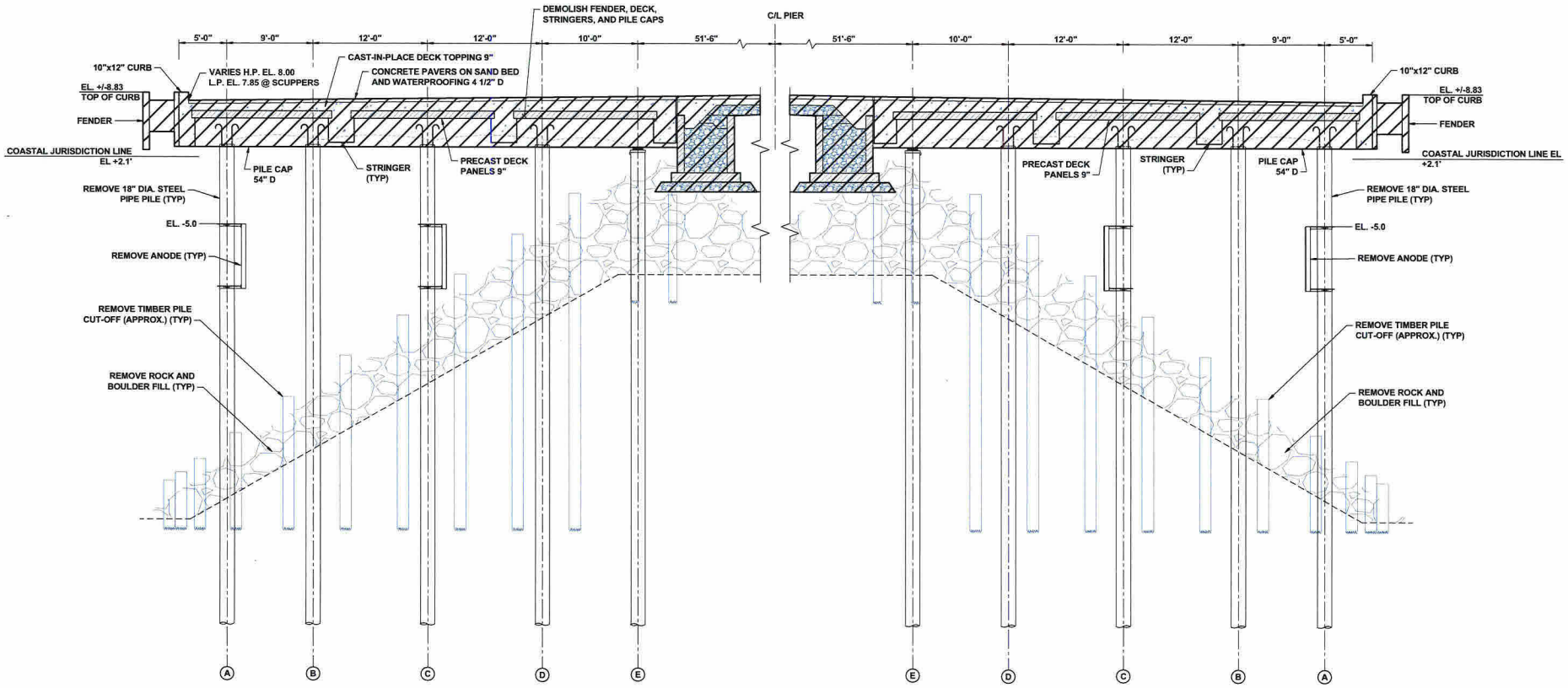
Email: marketing@seajacks.com

seajacks.com | +44 (0) 1493 841 400

All details are correct at time of going to press. However vessel specification may differ from time to time due to project specific alterations. General arrangement and detailed specifications available upon request.

Appendix C

M&N Preliminary Structural Drawings



D SECTION
SCALE: 3/16" = 1'-0"

NOTE:

1. ALL BOLLARDS AND FENDER SYSTEMS SHALL BE SALVAGED AND STORED AS DIRECTED BY OWNER.
2. WORK COVERED UNDER CERTIFICATE OF PERMISSION.

LEGEND

DEMOLISH AND REMOVE STRUCTURE

BASIS OF DESIGN
ISSUED: 1/20/2020
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moffatt & nichol

EXISTING STATE PIER PILE SUPPORTED PLATFORM

NEW LONDON, CONNECTICUT

8'-0" 0'-0" 4'-0" 8'-0"
SCALE: 3/16"=1'-0"

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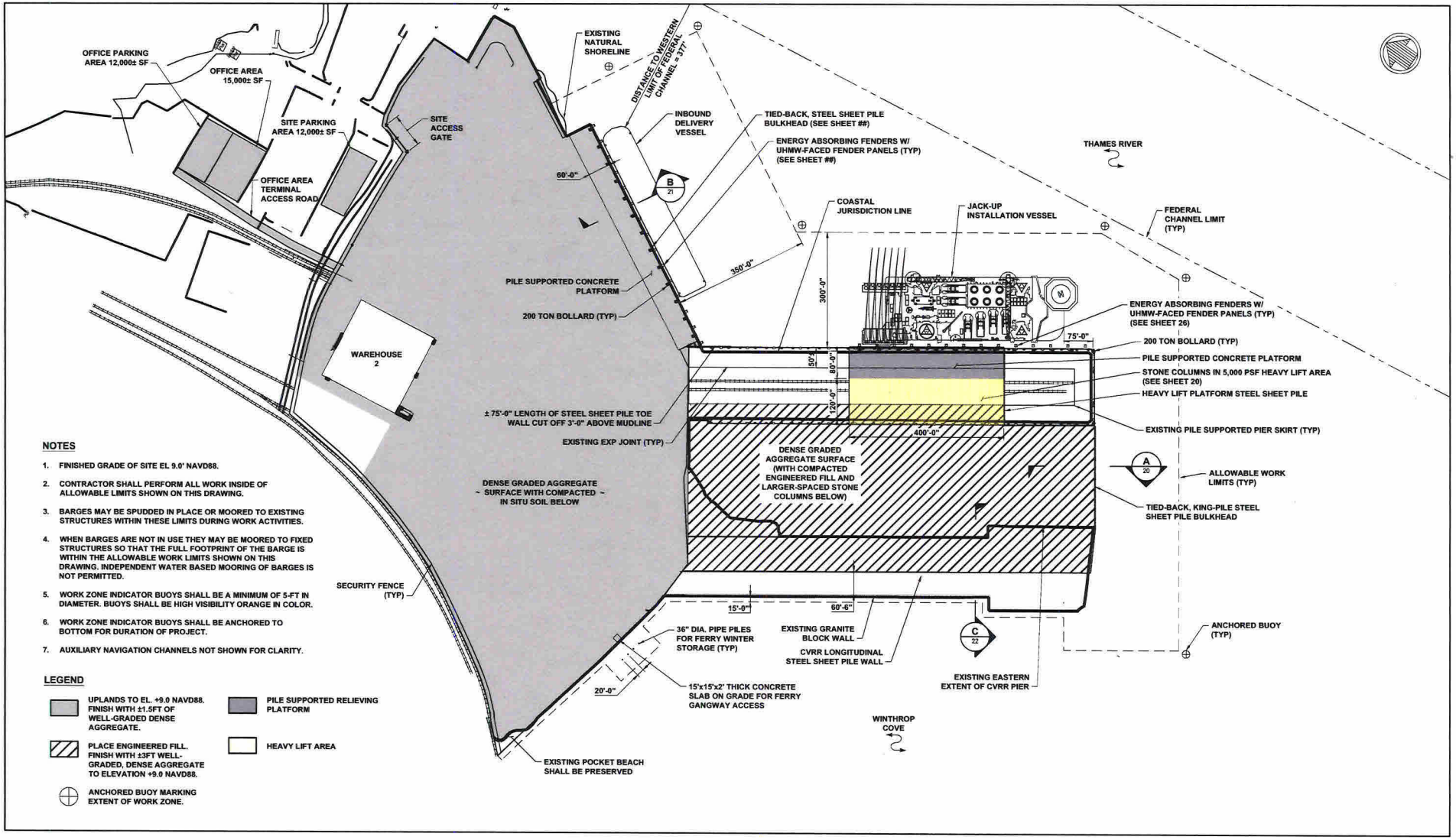

NOTES

1. FINISHED GRADE OF SITE EL 9.0' NAVD88.
2. CONTRACTOR SHALL PERFORM ALL WORK INSIDE OF ALLOWABLE LIMITS SHOWN ON THIS DRAWING.
3. BARGES MAY BE SPUDDED IN PLACE OR MOORED TO EXISTING STRUCTURES WITHIN THESE LIMITS DURING WORK ACTIVITIES.
4. WHEN BARGES ARE NOT IN USE THEY MAY BE MOORED TO FIXED STRUCTURES SO THAT THE FULL FOOTPRINT OF THE BARGE IS WITHIN THE ALLOWABLE WORK LIMITS SHOWN ON THIS DRAWING. INDEPENDENT WATER BASED MOORING OF BARGES IS NOT PERMITTED.
5. WORK ZONE INDICATOR BUOYS SHALL BE A MINIMUM OF 5-FT IN DIAMETER. BUOYS SHALL BE HIGH VISIBILITY ORANGE IN COLOR.
6. WORK ZONE INDICATOR BUOYS SHALL BE ANCHORED TO BOTTOM FOR DURATION OF PROJECT.
7. AUXILIARY NAVIGATION CHANNELS NOT SHOWN FOR CLARITY.

LEGEND

- UPLANDS TO EL. +9.0 NAVD88. FINISH WITH ±1.5FT OF WELL-GRADED DENSE AGGREGATE.
- PLACE ENGINEERED FILL. FINISH WITH ±3FT WELL-GRADED, DENSE AGGREGATE TO ELEVATION +9.0 NAVD88.
- ANCHORED BUOY MARKING EXTENT OF WORK ZONE.
- PILE SUPPORTED RELIEVING PLATFORM
- HEAVY LIFT AREA

Connecticut PORT AUTHORITY

BASIS OF DESIGN
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PROPOSED PLAN
NEW LONDON, CONNECTICUT

120' 0' 120' 240'
SCALE: 1"=120'

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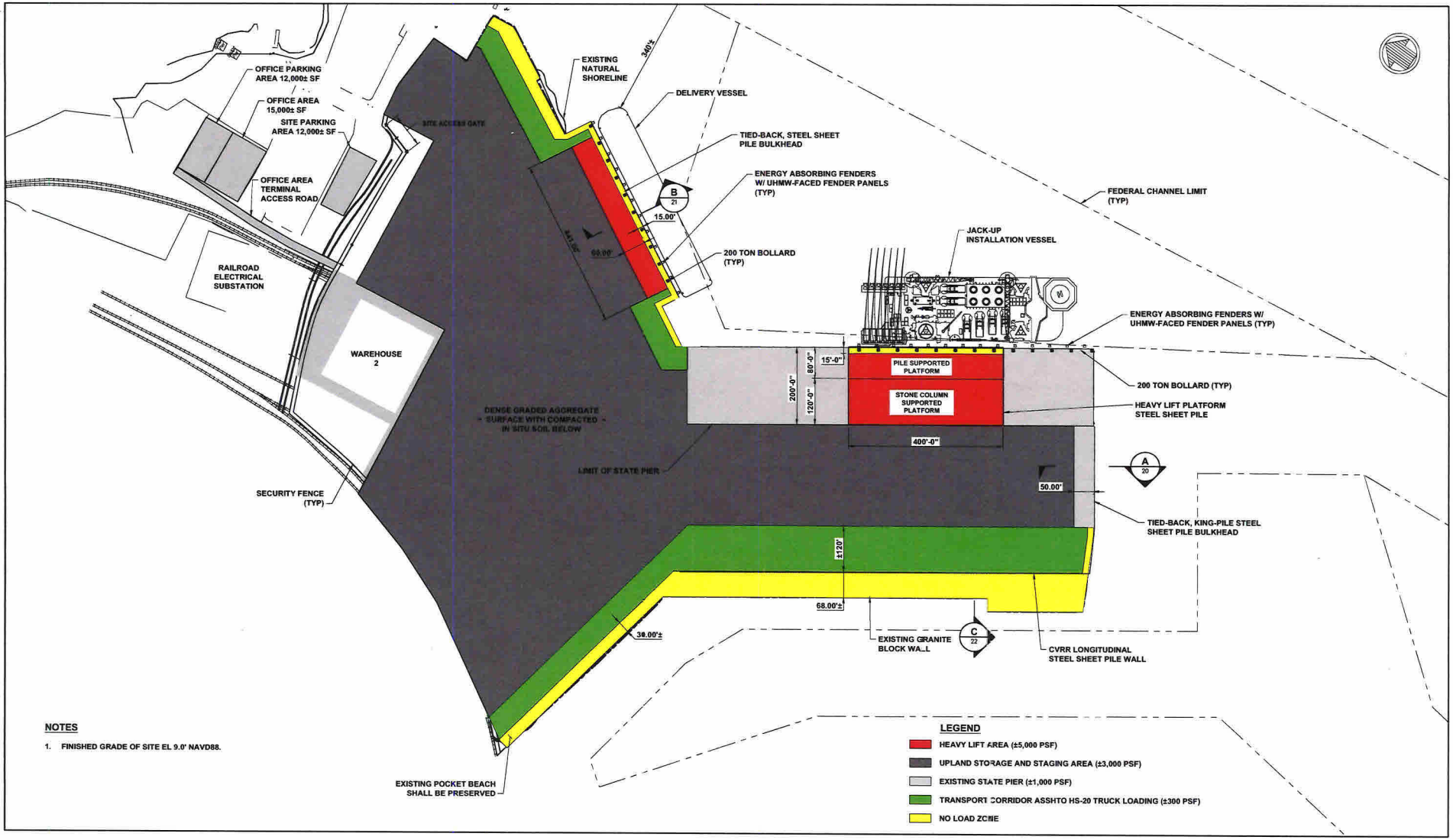

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FACILITY USE AND LOGISTICS PLAN

NEW LONDON, CONNECTICUT

120' 0' 120' 240'
SCALE: 1"=120'

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PROPOSED PIER (INSTALLATION BERTH) PLAN
N.T.S.

TOWER PACK (6)
N.T.S.

Connecticut PORT AUTHORITY

BASIS OF DESIGN
ISSUED: 1/20/2020
NOT TO BE USED FOR CONSTRUCTION

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PROPOSED LOAD OUT BERTH DETAIL

NEW LONDON, CONNECTICUT

120' 0' 120' 240'
SCALE: 1"=120'

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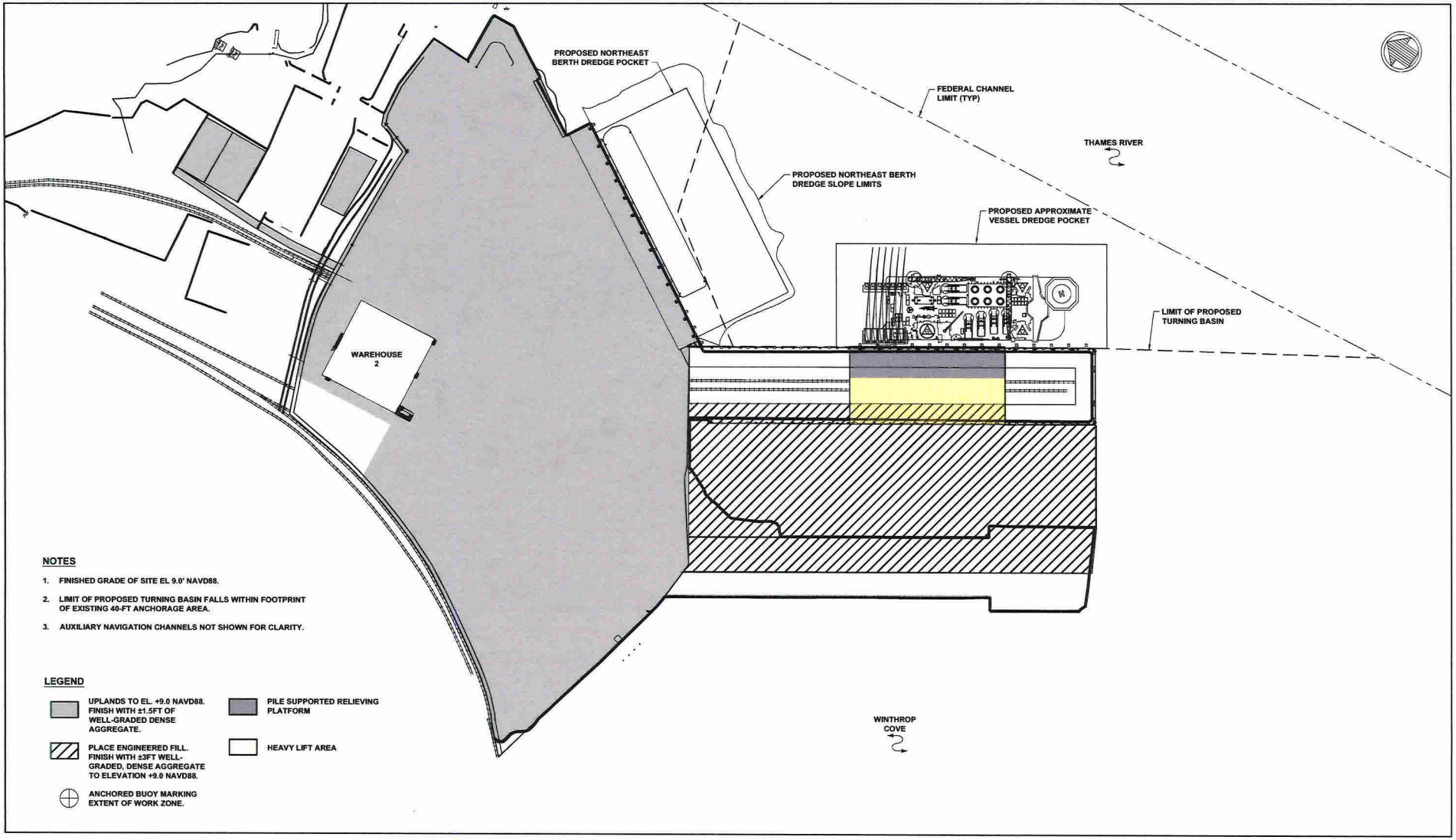

NOTES

1. FINISHED GRADE OF SITE EL 9.0' NAVD88.
2. LIMIT OF PROPOSED TURNING BASIN FALLS WITHIN FOOTPRINT OF EXISTING 40-FT ANCHORAGE AREA.
3. AUXILIARY NAVIGATION CHANNELS NOT SHOWN FOR CLARITY.

LEGEND

- UPLANDS TO EL. +9.0 NAVD88. FINISH WITH ±1.5FT OF WELL-GRADED DENSE AGGREGATE.
- PLACE ENGINEERED FILL. FINISH WITH ±3FT WELL-GRADED, DENSE AGGREGATE TO ELEVATION +9.0 NAVD88.
- ANCHORED BUOY MARKING EXTENT OF WORK ZONE.
- PILE SUPPORTED RELIEVING PLATFORM
- HEAVY LIFT AREA

Connecticut Port Authority

BASIS OF DESIGN
ISSUED: 1/20/2020
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moffatt & nichol

PROPOSED DREDGE PLAN
NEW LONDON, CONNECTICUT

120' 0' 120' 240'
SCALE: 1"=120'

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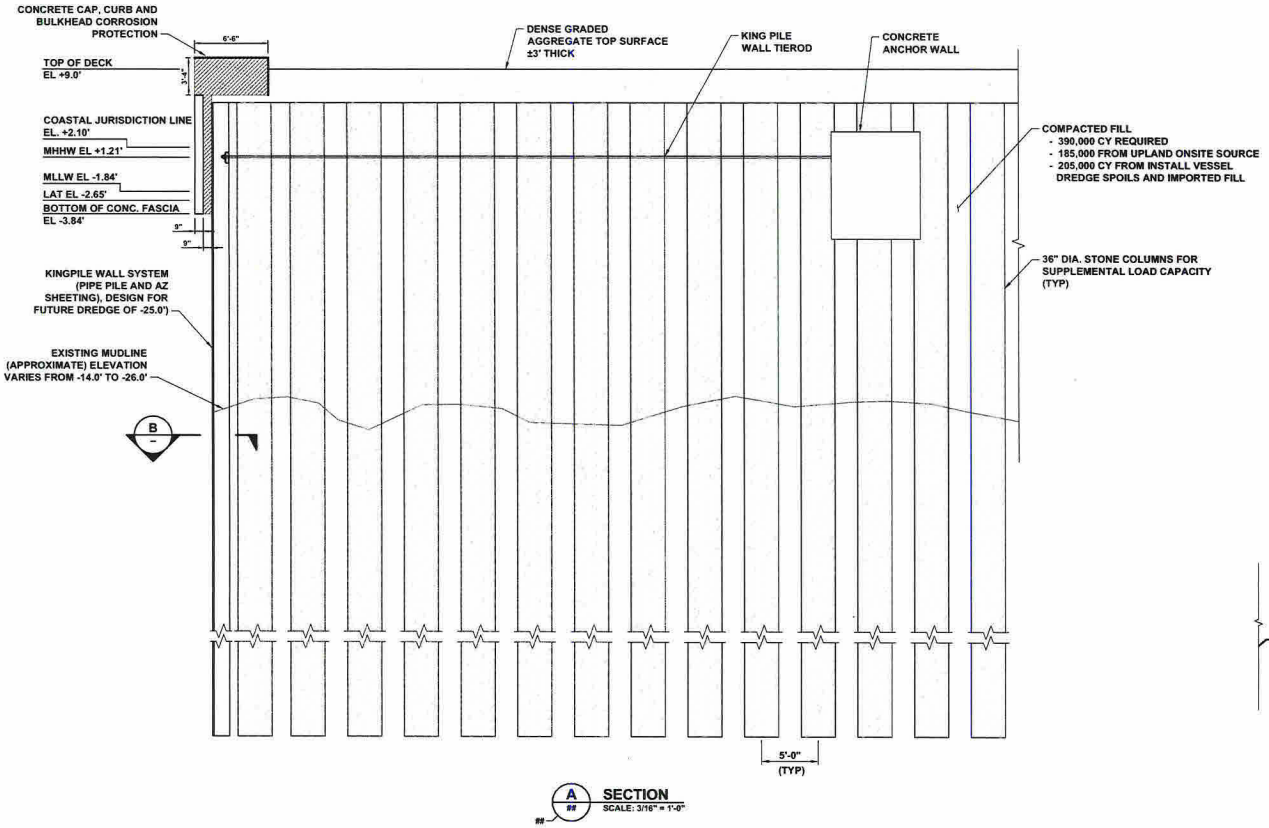
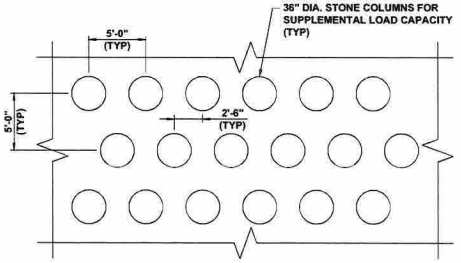
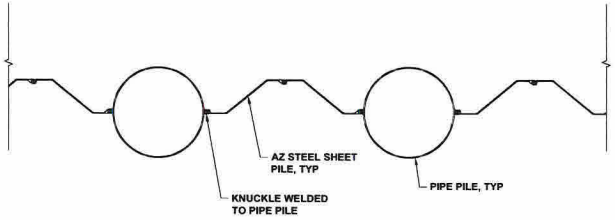




PARTIAL PLAN OF STONE COLUMNS
SCALE: 3/16" = 1'-0"



B
-
KING PILE WALL
SCALE: 1/2" = 1'-0"

NOTE:

1. STONE COLUMNS SHALL COVER APPROXIMATELY 25% OF HEAVY LIFT AREA FOOTPRINT.

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BASIS OF DESIGN
ISSUED: 1/20/2020
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KING PILE WALL CLOSURE BETWEEN CVRR AND STATE PIER

NEW LONDON, CONNECTICUT

8'-0" 0'-0" 4'-0" 8'-0"
SCALE: 3/16"=1'-0"
2'-0" 0'-0" 2'-0" 4'-0"
SCALE: 1/2"=1'-0"

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ANNEX C

CONCESSION AGREEMENT

EXECTUION COPY

CONCESSION AGREEMENT

- between -

CONNECTICUT PORT AUTHORITY

- and -

GATEWAY NEW LONDON LLC

- dated as of -
January 7, 2019

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CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT (this "**Concession Agreement**") is made as of the 7th day of January, 2019 (the "**Effective Date**") by and between THE CONNECTICUT PORT AUTHORITY (the "**Authority**"), a quasi-public agency of the State of Connecticut (the "**State**") and GATEWAY NEW LONDON LLC, a Delaware limited liability company (the "**Concessionaire**" and together with the Authority, each a "**Party**" and collectively, the "**Parties**").

RECITALS

WHEREAS, pursuant to Sections 15-31a through 15-31i of the General Statutes of Connecticut, as amended from time to time, and collectively with all rules and regulations promulgated thereunder (the "**Act**"), the Authority, a public instrumentality and political subdivision of the State, was created to coordinate the development of the State's ports and harbors and to, among other things, operate and maintain such ports and harbors, including the Port Facilities (as defined herein);

WHEREAS, on June 7, 2018, the Authority issued a request for proposals (as amended, the "**RFP**") to private contractors to enter into a long-term operating agreement to, among other things, improve, develop, finance, maintain and operate the Port Facilities;

WHEREAS, on or about August 31, 2018, the Authority received proposals in response to the RFP;

WHEREAS, after reviewing the proposals in accordance with the provisions of the RFP, the Authority entered into negotiations with the Concessionaire;

WHEREAS, the Authority desires to receive, and the Concessionaire desires to provide, the Port Services (as defined herein) at the Port Facilities under the terms of this Agreement;

WHEREAS, a resolution authorizing this Agreement, its execution and delivery was duly adopted by the Authority on January 7, 2019; and

WHEREAS, the execution and delivery of this Agreement by the Concessionaire has been duly authorized by all necessary corporate action.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1.

DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Concession Agreement, unless the subject or context otherwise requires, capitalized terms shall have the meanings given to them in Part I of Annex A.

1.2 Annexes and Schedules

The Annexes and Schedules to this Agreement shall form an integral part hereof and, unless otherwise stated, references to the Annexes or Schedules herein shall be construed as references to Annexes and Schedules to this Concession Agreement.

1.3 Rules of Interpretation

Unless otherwise expressly provided herein, the rules of interpretation set forth in Part II of Annex A shall apply to this Concession Agreement.

1.4 Concession Agreement

The following documents shall form this Concession Agreement :

(a) this agreement, including its Annexes; and

(b) the Schedules.

1.5 Conflicts

The several documents forming this Concession Agreement are to be taken as mutually explanatory of one another, but in the event of ambiguities or discrepancies the same shall be explained and adjusted by the Authority who shall thereupon issue to the Concessionaire instructions thereon. In such event, unless otherwise provided in this Concession Agreement, the priority of the documents forming this Concession Agreement shall be as follows:

(a) this agreement, including its Annexes; and

(b) the Schedules.

SECTION 2.

CONCESSION

2.1 Grant of Concession; Authority Tariff

2.1.1 By virtue of the powers delegated to the Authority, the Authority hereby grants to the Concessionaire, for the Concession Period and subject to the terms and conditions of this Concession Agreement, the right and obligation to: (a) operate, administer, manage, improve and maintain the Port Facilities and to provide Port Services at the Site; and (b) use and occupy the Site for the purpose of exercising and performing its rights and obligations as set forth in sub-clause (a) above.

2.1.2 The Authority grants, and the Concessionaire accepts, the rights and obligations hereunder, including the rights to use and occupy the Port Facilities and the Site for the purposes set forth in this Concession Agreement, in "AS IS" condition.

2.1.3 This Concession Agreement may create a possessory interest in real property subject to taxation and the Concessionaire acknowledges that it may be subject to payment of Taxes levied on such interest, if such an interest is created.

2.1.4 The Authority shall have the right to establish and amend, from time to time, an Authority Tariff to set forth rules and regulations applicable to the Site and the Port Facilities; *provided* that such Authority Tariff shall not establish the rates or charges applicable to the users of the Port Facilities during the Concession Period, except as is otherwise may be required by the Shipping Act. During the Concession Period, the Concessionaire shall have the right to advise the Authority of the Concessionaire's views with respect to any provision of the Authority Tariff or any proposed amendments to the Authority Tariff that the Concessionaire reasonably believes would be inconsistent with the Concessionaire's rights under this Concession Agreement; *provided, however*, that the foregoing shall not require the Authority to amend, or preclude the Authority from amending as the Authority deems appropriate in its discretion, the Authority Tariff in any way.

2.2 Title

2.2.1 Retention of Title

(a) The State has, and shall retain, good and valid title to the Port Facilities and the Site. The Authority, pursuant to an agreement with the State, maintains custody and control of and the right to use the Port Facilities and the Site. The Authority has the power, right and authority to enter into this Concession Agreement and to grant the rights and use in the Site to Concessionaire pursuant to the Authority's agreement with the State.

(b) The Concessionaire has and will have no fee title to, or fee ownership interest in the Site or any title or ownership interest in any portion of the Port Facilities owned by the Authority or the State, except with respect to (i) such Movable Property and Fixtures and Fittings transferred to the Concessionaire as described in Section 2.2.1(d) (ii) such Movable Property and Fixtures and Fittings that the Authority declines its option to purchase pursuant to Section 15.6.5 and (iii) any such Movable Property and Fixtures and Fittings that are owned by the Concessionaire and on the Site from time to time.

(c) Except in accordance with Section 17 and Section 19, the Concessionaire may not sell, assign or otherwise transfer, or create or suffer the creation or existence of any Encumbrance (other than a Permitted Concessionaire Encumbrance) upon, all or any part of the Site or any Port Facilities or any property interest of the Concessionaire therein granted by the Concession Agreement.

(d) The Movable Property and Fixtures and Fittings described on Schedule 3 shall be conveyed and transferred to the Concessionaire at the Closing and such transfer and conveyance shall be made pursuant to one or more bills of sale in form and substance reasonably satisfactory to the Authority and the Concessionaire. Such bill(s) of sale shall assign, convey and transfer to the Concessionaire any and all maintenance repair and maintenance contracts, manufacturer and vendor warranties applicable to such Movable Property and Fixtures and Fittings (to the extent that the same may be assignable, conveyable and transferable). Upon expiration or earlier termination of this Concession Agreement, the Authority shall have the right to purchase from the Concessionaire the Movable Property, Fixtures and Fittings and Cranes as are in use at the Site and the Port Facilities as of such expiration or termination date. The purchase price to be negotiated between the Authority and the Concessionaire shall be the Fair Market Value of such Movable Property, Fixtures and Fittings and Cranes as of such date. Within ninety (90) days of the end of each calendar year during the Concession Period, the Concessionaire shall notify the Authority of all Movable Property and Fixtures and Fittings acquired (whether via purchase or lease) by

the Concessionaire during such calendar year or otherwise put into service by the Concessionaire at the Site, such notification to include an estimate of the value of Movable Property, Fixtures and Fittings and Cranes.

2.3 Obligations of the Concessionaire

The Concessionaire agrees to assume the following principal obligations, as further set forth in this Concession Agreement:

2.3.1 Operation and Maintenance of Port Facilities

The Concessionaire shall be responsible, at its sole cost, risk and expense, for the comprehensive administration, management, operation and maintenance of the Port Facilities and all other obligations assumed by it under this Concession Agreement, all in accordance with the Port Operations Manual, the Port Standards, Good Industry Practice, all Applicable Laws and the terms hereof.

2.3.2 Port Services

Without limiting the generality of Section 2.1.1 or Section 2.3.1, the Concessionaire shall be obligated, at its sole cost, risk and expense, to provide or procure the provision of the Port Services for the duration of the Concession Period, all in accordance with the Port Operations Manual, the Port Standards, Good Industry Practice, all Applicable Laws and the terms hereof.

2.4 Fees and Payments

2.4.1 Annual Fixed Fee

On or before the Closing Date and on or before each anniversary of the Closing Date, the Concessionaire shall pay to the Authority, in cash, the amount corresponding to the applicable period as set forth in the following table:

Applicable Period	Annual Fixed Fee
The Closing Date through and including the fourth (4th) anniversary of the Closing Date	$500,000
The fifth (5th) anniversary of the Closing Date through and including the ninth (9th) anniversary of the Closing Date	$750,000
The tenth (10th) anniversary of the Closing Date through and including the fourteenth (14th) anniversary of the Closing Date	$1,000,000
The fifteenth (15th) anniversary of the Closing Date through and including the nineteenth (19th) anniversary of the Closing Date	$1,250,000

(as adjusted, the "**Annual Fixed Fee**"). Such Annual Fixed Fee, once paid, shall be non-refundable, including in the event that the Concession Period is terminated after the payment of the Annual Fixed Fee applicable to such year but prior to the next anniversary of the Closing Date.

2.4.2 Variable Fee

The Concessionaire shall pay to the Authority, in cash, an amount (the "**Variable Fee**") equal to the greater of (a) seven percent (7%) of the Gross Revenues and (b) the Minimum Annual Guarantee. The Variable Fee for each year of the Concession Period shall be payable as follows: (i) four equal quarterly installments in the amount of twenty-five percent (25%) of the then-applicable Minimum Annual Guarantee, which shall be due on (A) the Closing Date or the anniversary of the Closing Date, as applicable, (B) that date that is 90 days after the Closing Date or the anniversary of the Closing Date, as applicable, (C) that date that is 180 days after the Closing Date or the anniversary of the Closing Date, as applicable and (D) that date that is 270 days after the Closing Date or the anniversary of the Closing Date, as applicable; and (ii) any Variable Fee in excess of the Minimum Annual Guarantee shall be due and shall be paid by the Concessionaire within 30 days after the delivery of the audited annual financial statements of the Concessionaire, as required by Section 10.6. Any unpaid installments of the Variable Fee in respect of the final year of the Concession Period shall be due and shall be paid by the Concessionaire within 90 days after the expiration or termination of the Concession Period. In the event that containerized cargo exceeds more than 10% of the Gross Revenue of the Concessionaire in a calendar year, the Parties shall, in good faith, negotiate with respect to a possible increase to the calculation methodology for the Variable Fee with respect to containerized cargo, if appropriate.

2.4.3 Annual Deposit

(a) No later than sixty (60) days prior to the first day of each calendar year during the Concession Period, the Concessionaire shall either (i) deliver to the Authority a Letter of Credit with a term of at least one year from the first day of that year in an amount equal to One Million Dollars (USD 1,000,000) or (ii) deliver or maintain in an Escrow Account for the benefit of the Authority a cash deposit in the same amount. On each of the fifth (5th), tenth (10th) and fifteenth (15th) anniversaries of the Closing Date (each such date, a "Fee Adjustment Date"), the amount of the annual deposit required by this Section 2.4.3 shall be increased by an amount equal to the net incremental change in the sum of the Annual Fixed Fee and the Minimum Annual Guarantee becoming applicable as of such Fee Adjustment Date as compared to the sum of the Annual Fixed Fee and the Minimum Annual Guarantee applicable immediately prior to such Fee Adjustment Date.

(b) The Letter of Credit or Escrow Account (including any interest earnings thereon) described in this Section 2.4.3 shall be used (i) for the purpose of funding (A) any shortfalls in the Annual Fixed Fee or the Variable Fee, (B) any other amounts due and payable to the Authority under this Concession Agreement or (C) generally applicable Taxes that the Concessionaire fails to pay for which the failure to pay may result in the imposition of an Encumbrance on the Site or the Port Facilities, and (ii) for paying any Losses or damages provided for in Section 15.2.

(c) In the event of any such shortfalls, amounts or Losses, the Authority shall have the right (in addition to all other rights and remedies provided in this Concession Agreement, but with the understanding that any other monetary damages that the Authority may recover will be reduced by the amount so drawn, and without the Authority's exercise of such right being deemed a waiver or a cure of the Concessionaire's failure to perform and whether or not this Concession Agreement is thereby terminated), without notice to the Concessionaire, to draw up to the full amount of the Letter of Credit or to withdraw up to the full amount of cash in the Escrow Account (but in either case, no greater than the applicable shortfall, amount or Loss) upon presentation of a sight draft or escrow instruction, as applicable, and a certificate confirming that the Authority has the right to draw under the Letter of Credit or withdraw from the Escrow Account in the amount of such sight draft or escrow instruction.

(d) In the event the Authority draws down on any Letter of Credit or withdraws cash from the Escrow Account delivered pursuant to this Section 2.4.3, the Concessionaire shall, immediately upon notice by the Authority of such draw, deliver to the Authority an additional Letter of Credit or make an additional deposit in the Escrow Account in an amount equal to the amount so drawn or withdrawn, as applicable, or a replacement Letter of Credit in the full amount set forth in Section 2.4.4(a) so that at all times the Authority shall have in its possession one or more Letters of Credit or an Escrow Account balance totaling the full amount set forth in Section 2.4.3(a).

(e) In the event that the issuer of a Letter of Credit no longer meets the credit rating requirements for such issuer set forth in this Concession Agreement, then the Concessionaire shall have the obligation to replace such Letter of Credit with an instrument that meets the requirements set forth in this Concession Agreement or instead use an Escrow Account.

(f) Absent intentional fraud on behalf of the Authority, the Concessionaire's sole remedy in connection with the improper presentment or payment of sight drafts drawn under the Letter of Credit or improper instruction for withdrawal from the Escrow Account shall be the right to obtain from the Authority a refund of the amount which was drawn or withdrawn inappropriately or misapplied and the reasonable costs incurred by the Concessionaire as a result of such draw or misapplication (including, for the avoidance of doubt, interest thereupon).

(g) The Concessionaire acknowledges that the presentment of sight drafts drawn under the Letter of Credit or the withdrawal from the Escrow Account could not under any circumstances cause the Concessionaire injury that could not be remedied by an award of money damages as described in Section 2.4.4(f), and that the recovery of such money damages would be an adequate remedy therefor.

(h) The Concessionaire shall not request or instruct the issuer of the Letter of Credit or the escrow agent to refrain from paying any sight draft drawn under a Letter of Credit or request for payment under the Escrow Account.

2.4.4 Certain Reimbursements.

The Concessionaire shall reimburse the Authority for any costs incurred by the Authority in respect of any feasibility study concerning wind energy uses of for the BSW Development to the extent that, by that date that is two (2) years following the Effective Date, the BSW Development does not proceed and any such costs have not been reimbursed to the Authority by BSW, subject to a maximum cap of such reimbursement from the Concessionaire equal to $74,000.

2.4.5 Additional Amounts

All payments to be made by or on behalf of the Concessionaire to the Authority under this Concession Agreement shall be made free and clear of, and without deduction or withholding for or on account of, any Taxes. If the Concessionaire (or any other Person effecting payment on behalf of the Concessionaire's obligations) is required by generally Applicable Law or otherwise to deduct or withhold any Taxes from any such payment, then the amount payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional amounts payable under this Section) the Authority shall receive the full amount it would have received had no such deduction or withholding been required. For the avoidance of doubt and in furtherance of the Authority's obligations under Section 2.4.8, the Authority shall use its commercially reasonable efforts to negotiate with the Concessionaire with respect to the addition of any additional land to the Site to the extent that the addition of any such additional land may cause an imposition or increase in any Taxes payable by the Concessionaire.

2.4.6 Method of Payment

All payments to be made by the Concessionaire to the Authority under this Concession Agreement shall be made, free of any set-offs or counterclaims whatsoever, in immediately available funds to an account notified in writing by the Authority for such purpose. Payments to be made by the Concessionaire to the Authority under this Concession Agreement shall not be subject to any abatement, and the payments thereof shall not be subject to any set-off or reduction for any reason whatsoever, including any present or future claims of the Concessionaire against the Authority, any other Relevant Authority, any Subcontractor, any User or any other Person under this Concession Agreement, any other Project Agreement or otherwise.

2.4.7 Payment Obligations Unconditional

From and after the Closing Date, the obligations of the Concessionaire to pay Concession Fees to the Authority under Section 2.4 of this Concession Agreement are absolute and unconditional and shall not be affected by any circumstance whatsoever, including: (a) any abatement, reduction, set-off, defense, counterclaim, interruption, deferment or recoupment right the Concessionaire may have against the Authority, any Subcontractor or any other Person for any reason whatsoever; (b) any defect in the title, condition, design, operation, merchantability or fitness for use of, or any damage to or loss or theft or destruction of, the Site or the Port Facilities, or the absence of access thereto or any interference, interruption or cessation in or prohibition of the use or possession thereof by the Authority or any other Person for any reason whatsoever, including any such interference, interruption, cessation or prohibition resulting from the act of any Relevant Authority or otherwise; (c) any Encumbrances or rights of any Person with respect to the Site or the Port Facilities; (d) the invalidity or unenforceability or lack of due authorization or other infirmity of this Concession Agreement or any other Project Agreement or any lack of right, power or authority of the Authority, the Concessionaire, any Subcontractor or any other Person to enter into this Concession Agreement or any other Project Agreement, as the case may be; (e) the Concessionaire or any other Person at any time having immunity from suit, prejudgment attachment, attachment in aid of execution or execution on the grounds of sovereignty or otherwise; (f) Force Majeure; or (g) any other event or circumstance, whether similar or dissimilar to the foregoing, that, but for this provision, could constitute a legal or equitable defense to payment hereunder, any present or future law notwithstanding.

2.4.8 Area Measurements; Additions to Site

The Parties acknowledge that the Concession Fees stated herein have not been determined strictly on the basis of surface dimensions and therefore shall not be subject to adjustment, notwithstanding any technical discrepancy between the description of the Site contained in Schedule 1 hereof and any final measurements or legal description contained in or resulting from any subsequent land survey. To the extent that the Authority wishes to add additional land to the Site, the Authority shall provide notice of such intention to the Concessionaire and shall use commercially reasonable efforts to negotiate in good faith with the Concessionaire regarding a corresponding increase in the Annual Fixed Fee (it being understood that a percentage increase to the Annual Fixed Fee not less than the corresponding percentage increase in the land included in the Site shall be a good-faith opening position for such negotiations). Notwithstanding the foregoing, the Authority may proceed to add any such additional land to the Site without the consent of the Concessionaire. To the extent that portions of the Site are removed by the Authority, by eminent domain or otherwise, the Parties agree to use commercially reasonable efforts to mutually agree on a decrease of the Annual Fixed Fee to reflect such decrease.

2.5 User Fees

2.5.1 Determination and Collection; Distribution

(a) Subject to the terms and conditions of this Concession Agreement, the Concessionaire shall have the exclusive right to establish, collect and retain fees and charges for all Port Services performed or conducted by the Concessionaire at the Site and the Port Facilities as it shall determine including those uses set forth on Schedule 2 (collectively, the "**User Fees**"); *provided* that the Concessionaire shall not have the right to collect from the Authority or any other Person authorized to access the Site and the Port Facilities on behalf of the Authority under this Concession Agreement any User Fees with respect thereto to the extent that the Concessionaire is not requested to perform any Port Services in respect of the Authority or other Person authorized to access the Site and the Port Facilities on behalf of the Authority. In addition, the Concessionaire shall have the right, subject to the requirements of the Shipping Act, to enter into agreements with ocean common carriers and other vessel owners or operators, rail carriers, and other users of the Site and the Port Facilities and to establish, maintain and modify MTO Schedules throughout the Concession Period, as such MTO Schedules may be required or permitted by the Shipping Act, and subject to the requirements thereof. The MTO Schedules, as from time to time amended, established by the Concessionaire shall not be inconsistent with the Authority Tariff, including amendments thereto.

(b) The Concessionaire shall distribute, not later than the 15th day of each calendar month, to the Authority fifty percent (50%) of that portion of the User Fees attributable to wharfage and dockage fees collected by the Concessionaire during the preceding calendar month.

2.5.2 Obligation to file MTO Schedules with the Authority

Not less than thirty (30) days prior to the imposition of or change to the MTO Schedules, the Concessionaire shall notify the Authority in writing of such imposition or change and file the proposed MTO Schedules with the Authority. The Authority and the Concessionaire may, on a voluntary and non-binding basis, discuss and agree on the rates, terms and conditions in the MTO Schedules; *provided* that the Concessionaire shall have the ultimate right to establish the MTO Schedules pursuant to Section 2.5.1 in its discretion.

2.5.3 Assessments by Relevant Authorities

The Concessionaire shall collect, on behalf of all Relevant Authorities (other than the Authority), all fees, duties and other charges assessed from time to time by such other Relevant Authorities upon Port Services, Cargo, Vessels or Users, including, without limitation, any charges from time to time assessed by the State or other Relevant Authorities for purposes of funding maritime or transportation infrastructure maintenance or development. Such amounts collected by the Concessionaire shall be the property of such Relevant Authority, shall be held by the Concessionaire in trust for such Relevant Authority and shall be immediately deposited by the Concessionaire (as and when collected) into the account designated by such Relevant Authority for such purpose.

2.5.4 Exemptions

The military of the State and the United States Federal Government and the police of the State, the United States Federal Government or other municipal or regional authority with jurisdiction shall be exempt from User Fees in connection with the performance of their statutory, non-commercial functions.

2.5.5 Currency

All User Fees shall be denominated in Dollars and collected by the Concessionaire in Dollars.

2.6 Compliance with Laws

The Concessionaire acknowledges and agrees that it has familiarized itself with the requirements of any and all Applicable Laws, including the conditions of any required Regulatory Approvals prior to entering into this Concession Agreement. The Concessionaire shall be responsible for complying with the foregoing at its sole cost and without any modification in Concession Fees or extension of time for performance of any obligation under this Concession Agreement on account of such compliance, regardless of whether such compliance would require additional time for performance or additional labor, equipment or costs not expressly provided for in this Concession Agreement. The Concessionaire has no reason to believe that any Regulatory Approval required to be obtained by the Concessionaire will not be granted in due course and thereafter remain in effect so as to enable performance of this Concession Agreement in accordance with its terms. In the event that any Regulatory Approvals required to be obtained by the Concessionaire must formally be issued in the name of the Authority or another Person, the Concessionaire shall undertake all efforts to obtain such approvals subject to the Authority's (or such other Person's, as the case may be) reasonable cooperation with Concessionaire. To the extent not inconsistent with Applicable Law, the Concessionaire shall provide the Authority with copies of all Regulatory Approvals.

2.7 Assumed Obligations

The Concessionaire agrees to assume and discharge or perform when due, all debts and obligations whatsoever relating to the Site, the Port Facilities and the Port Services that occur, arise out of or relate to, or are based on facts or actions occurring, during (and not prior to) the Concession Period, but only to the extent that such debts or obligations do not arise from or relate to any breach by the Authority of any covenant, term, condition, representation or warranty set forth in this Concession Agreement (collectively, the "**Assumed Obligations**"); *provided, however*, that the Assumed Obligations shall not include, and as between the Authority and the Concessionaire, the Authority shall perform and discharge as and when due, any debts, obligations and liabilities (i) with respect to the Authority's obligations under this Concession Agreement; (ii) under any Environmental Law arising out of or relating to the ownership, operation or condition of the Site and the Port Facilities at any time prior to the Time of Closing or any Hazardous Substance or other contaminant that was present on the Site or otherwise existed at any time prior to the Time of Closing; and (iii) relating to any latent defects of the Site or the Port Facilities that existed prior to the Time of Closing (collectively, the "**Excluded Obligations**").

2.8 Other Operations

The Concessionaire shall not conduct, and shall cause its Affiliates to not conduct, the operations at the New Haven, Connecticut port facilities and any other port facility operations at any other port facilities that the Concessionaire (or its Affiliates) may in the future undertake located in the State of Connecticut, the State of Rhode Island or the Commonwealth of Massachusetts to be undertaken in a manner with respect to customer activity and arrangements resulting in disparate and negative outcomes for the Concessionaire's operations at the Site and the Port Facilities as compared to such other operations that are attributable to the willful conduct of the Concessionaire or its Affiliates that prioritize or favor such other operations over the operations at the Site and the Port Facilities, unless such disparity is supported by a reasonable business rationale, as demonstrated by the Concessionaire to the Authority by clear and convincing evidence. Upon notice from the Authority to the Concessionaire that the Authority has a reasonable belief that the Concessionaire may have engaged in conduct in contravention of the

Concessionaire's obligations under this Section 2.8, the Concessionaire shall cooperate with the Authority to investigate such belief, including by promptly providing the Authority with accurate and complete records of the operations of the Concessionaire and its Affiliates with respect to the Site, the Port Facilities and the other operations of the Concessionaire and its Affiliates, as applicable to the alleged conduct in contravention of this Section 2.8. For the avoidance of doubt, and notwithstanding anything contained herein to the contrary, the continued operations of port facilities located at New Haven, Connecticut owned and/or operated by the Concessionaire (or its Affiliates) in the ordinary course of business, consistent with past practice as of the Effective Date (as shown by reasonable supporting evidence from the Concessionaire), shall be deemed to satisfy the requirements of the Concessionaire pursuant to this Section 2.8.

2.9 Additional Services

During the Concession Period, the Authority may request the Concessionaire to provide additional services to the Authority which are reasonably similar or related to the services performed pursuant to this Concession Agreement provided they do not materially and adversely impair the Concessionaire, existing services being performed, or operations then existing. The Authority and the Concessionaire shall mutually agree in good faith as to the terms and conditions relating to the Concessionaire providing such additional services prior to the commencement of such services. This Concession Agreement shall be amended by the Parties as necessary to provide for such additional services.

SECTION 3.

CONCESSION PERIOD

3.1 Concession Period

3.1.1 The Concession Period shall be for a period of twenty (20) years from the Closing Date, subject to extension in accordance with Section 14.4 and subject to earlier termination in accordance with the terms of this Concession Agreement. To the extent that the BSW Development has been implemented, as of the twelfth (12th) anniversary of the Closing Date, the Parties agree to use commercially reasonable efforts to renegotiate in good faith possible increases to the Annual Fixed Fee, the Variable Fee and/or the Minimum Annual Guarantee in light of such BSW Development and corresponding operations.

3.1.2 If no Default shall have occurred and be continuing at the end of the initial Concession Period, upon notice from the Authority to the Concessionaire not later than 180 days prior to the expiration of the initial Concession Period, the Concession Period shall be extended for an additional ten (10) years from the then-scheduled expiration of the Concession Period (the "**First Extension Period**").

3.1.3 If no Default shall have occurred and be continuing at the end of the First Extension Period, upon notice from the Authority to the Concessionaire not later than 180 days prior to the expiration of the First Extension Period, the Concession Period shall be extended for an additional ten (10) years from the then-scheduled expiration of the Concession Period (the "**Second Extension Period**").

3.1.4 If no Default shall have occurred and be continuing at the end of the Second Extension Period, the Concession Period may be extended (or a new agreement between the Parties may be executed) by mutual agreement of the Parties, if such extension (or new agreement) is determined to be in the best interests of the Parties, as determined by each Party in such Party's discretion.

SECTION 4.

CLOSING

4.1 Prior to Closing

4.1.1 The Authority and the Concessionaire shall use best efforts to satisfy the conditions precedent to the Closing Date specified in Section 4.4 within ninety (90) days of the Effective Date and not later than April 15, 2019 (the "**Outside Closing Date**").

4.2 Closing Deposit

4.2.1 The Authority acknowledges the deposit into an Escrow Account (the "**Closing Deposit**") as of the Effective Date of an aggregate amount equal to Five Hundred Thousand Dollars (USD 500,000.00) to be held by the Authority solely for the purposes described in Sections 4.2.2 and 4.2.3.

4.2.2 If the Authority terminates this Concession Agreement pursuant to Section 4.7.1(d), then the Authority shall be entitled to retain any Closing Deposit and all interest earned thereon, as the sole remedy or right of the Authority against the Concessionaire related to the failure of the Concessionaire to satisfy any condition set forth in Section 4.4. If this Concession Agreement is terminated for any other reason, the Authority shall return any Closing Deposit and all interest earned thereon. The right of the Authority to retain any Closing Deposit and all interest earned thereon is intended to be, and shall constitute, liquidated damages to compensate the Authority for the cost of forgoing alternative opportunities and for other costs incurred by the Authority in reliance on the Concessionaire's agreement to enter into the transactions contemplated hereby, and full retention of any Closing Deposit and all interest earned thereon shall terminate all other rights and remedies of the Authority with respect to the Concessionaire related to the failure of the Concessionaire to satisfy any condition set forth in Section 4.4. The Parties acknowledge that the damages suffered by the Authority as a result of such termination would be impossible to ascertain and that the Closing Deposit and all interest earned thereon is a reasonable estimate thereof and is not intended as a penalty.

4.2.3 At Closing, upon satisfaction of the conditions set forth in Sections 4.4, 4.5 and 4.6, the Authority shall be entitled to withdraw the Closing Deposit and all interest earned thereon as a credit against the first payment of the Annual Fixed Fee.

4.3 Closing

4.3.1 Except for the rights and obligations of the Parties specified in Section 4.1.1, which are intended to be legally binding as of the Effective Date and subject to Section 4.4, the rights and obligations of the Parties under this Concession Agreement shall become effective upon the closing of the transactions contemplated hereby (the "**Closing**").

4.3.2 The Closing shall take place on such date as is agreed to in writing by the Authority and the Concessionaire (the "**Closing Date**"). The Closing Date shall be not more than ninety (90) days after the Effective Date; *provided* that such 90-day period may be extended to a date not later than the Outside Closing Date if the Party wishing to extend such period has shown, to the reasonable satisfaction of the other Party, that it has exerted best efforts to satisfy the conditions to the Closing Date in accordance with the terms of this Concession Agreement and that the Closing Date is likely to occur within the extended period.

4.3.3 The Closing shall take place at 10:00 a.m. on the Closing Date or such other time on such date agreed to in writing by the Authority and the Concessionaire (the "**Time of Closing**").

4.3.4 The Closing shall be held at the offices of the Authority, or such other place mutually agreed to in writing by the Authority and the Concessionaire.

4.3.5 At the Time of Closing, the Concessionaire shall deliver or cause to be delivered to the Authority same-day funds by wire transfer in the amount of the initial payment of the Annual Fixed Fee (less the amount of any Closing Deposit (plus all interest thereon) that the Concessionaire previously paid pursuant to Section 4.2).

4.4 Conditions Precedent to Closing for the Benefit of the Authority

The Authority shall be obliged to consummate the Closing in accordance with the terms hereof only if each of the following conditions has been satisfied in full at or before the Time of Closing, unless waived by the Authority:

4.4.1 the representations and warranties of the Concessionaire in Section 5.1 shall be true and correct on and as of the Effective Date and at and as of the Time of Closing with the same force and effect as if made at and as of such time and date except for failures of representations and warranties to be true or correct that, individually or in the aggregate, have not had and are not reasonably likely to have a material adverse effect on the ability of the Concessionaire to consummate the transactions contemplated hereby or perform its obligations hereunder (it being understood that, for purposes of determining whether such failures have not had and are not reasonably likely to have a material adverse effect on the ability of the Concessionaire to consummate the transactions contemplated hereby or perform its obligations hereunder, all materiality qualifications and references to a material adverse effect contained in such representations and warranties shall be disregarded);

4.4.2 the Authority shall have received the initial payment of the Annual Fixed Fee (less the amount of any Closing Deposit (plus all interest thereon)) and as required pursuant to Section 2.4.4, a Letter of Credit or Escrow Account for the initial annual deposit;

4.4.3 the Authority shall have received the Performance Bond to the extent required for the initial year of the Concession Period by this Agreement, in lawful cash currency of the United States, or by a Letter of Credit or bond in form and substance reasonably satisfactory to the Authority;

4.4.4 the Authority shall have received and approved the Port Operations Manual, in form and substance reasonably satisfactory to the Authority;

4.4.5 the execution and delivery of each other Project Agreement to which the Concessionaire, but not the Authority, is a party, which Project Agreements shall be in full force and effect, with all conditions precedent to the effectiveness thereof having been fulfilled or waived, as the case may be, except any condition precedent regarding the effectiveness of this Concession Agreement;

4.4.6 except for those approvals required as mutual conditions to Closing as described in Sections 4.6.1 and 4.6.2, all necessary approvals, consents and authorizations, including all required Regulatory Approvals with respect to the execution, delivery and performance by the Concessionaire of its obligations under this Concession Agreement and each other Project Agreement having been obtained and being in full force and effect;

4.4.7 the Authority shall have received evidence, in the form of brokers' certificates or insurance binders, that satisfactory arrangements have been made by the Concessionaire for the procurement of the insurance policies required to be in effect on the Closing Date in accordance with the Insurance Requirements, subject only to the payment by the Concessionaire of the required premiums;

4.4.8 the Authority shall have approved the Transition Plan;

4.4.9 there being, other than as previously disclosed in writing by the Concessionaire, no proceeding, action or claim pending, or threatened, which may have a potentially adverse effect on the Project or the performance of its obligations hereunder;

4.4.10 the Concessionaire's legal adviser or advisers shall have issued a legal opinion, in form and substance acceptable to the Authority; and

4.4.11 the Authority shall have received approval of this Concession Agreement from applicable Relevant Authorities as may be required by any Applicable Law. Concessionaire shall cooperate with the Authority to obtain all such approvals, including, providing such Relevant Authorities with any data, documents, or information that such Relevant Authorities may reasonably determine to be necessary in obtaining said approvals and meeting with any State of Connecticut representatives, as reasonably requested by Authority or such Relevant Authorities.

4.5 Conditions Precedent to Closing for the Benefit of the Concessionaire

The Concessionaire shall be obliged to consummate the Closing in accordance with the terms hereof only if each of the following conditions precedent has been satisfied in full at or before the Time of Closing, unless waived by the Concessionaire:

4.5.1 the representations and warranties of the Authority set forth in Section 5.2 shall be true and correct on and as of the Effective Date and at and as of the Time of Closing with the same force and effect as if made at and as of such time and date except for failures of representations and warranties to be true or correct that, individually or in the aggregate, have not had and are not reasonably likely to have a Material Adverse Effect;

4.5.2 the Authority's legal adviser or advisers shall have issued a legal opinion, in form and substance reasonably acceptable to the Concessionaire; and

4.5.3 the Concessionaire has completed due diligence of all Regulatory Approvals and Environmental Permits necessary for the operation of the Port Facilities to the reasonable satisfaction of the Concessionaire.

4.6 Mutual Conditions Precedent to Closing

The Authority and the Concessionaire shall be obliged to consummate the Closing in accordance with the terms hereof only if each of the following conditions precedent has been satisfied in full at or before the Time of Closing, unless waived by both the Authority and the Concessionaire:

4.6.1 this Concession Agreement shall have been filed with the United States Federal Maritime Commission to the extent required by Section 5 of the Shipping Act, as amended by the United States Ocean Shipping Reform Act of 1996;

4.6.2 if applicable, any of the following shall have occurred (and with respect to the condition described in this Section 4.6.2, the Concessionaire, at the Concessionaire's expense, shall prepare any required filing in connection with such review under the Exon-Florio Act, and the Parties shall make best efforts to cooperate in expediting the review under the Exon-Florio Act to the extent practicable): (a) the review period under Section 721 of Title VII of the Defense Production Act of 1950, as amended (the "**Exon-Florio Act**") during which the President or his designee may commence a review of this Concession Agreement shall have expired without such review having been commenced, or (b) such review shall have been commenced and the Authority shall have received notice that such review has been completed and that either this Concession Agreement is not a covered transaction under the Exon-Florio Act or there are no unresolved national security concerns, or (c) the President or his designee shall have commenced an investigation and the Authority shall have received notice that such investigation has been completed and that either this Concession Agreement is not a covered transaction under the Exon-Florio Act or there are no unresolved national security concerns, or (d) the period under the Exon-Florio Act during which the President may announce his decision to take action to suspend, prohibit or place any limitations on the transactions contemplated by this Concession Agreement shall have expired without any such action being threatened, announced or taken or (e) the President shall have announced a decision not to take any such action; and

4.6.3 there shall be no preliminary or permanent injunction or temporary restraining order or other order issued by a Relevant Authority of competent jurisdiction or other legal restraint or prohibition enjoining or preventing the transactions contemplated hereby, and there shall be no action taken (including the pendency of any review or proceeding), or any Applicable Law enacted, entered, enforced or deemed applicable to the transactions contemplated hereby by any Relevant Authority of competent jurisdiction that, in any such case, has resulted or (in the case of any pending review or proceeding, if adversely determined) could reasonably be expected to result in such Relevant Authority conditioning or restricting the consummation of the transactions contemplated hereby in a manner that would impose a material impairment on such transactions or make the consummation of such transactions illegal.

4.7 Termination Prior to Closing

4.7.1 This Concession Agreement may be terminated at any time prior to the Closing:

(a) by mutual consent of the Authority and the Concessionaire in a written instrument;

(b) by either the Authority or the Concessionaire, upon notice to the other Party, if any Relevant Authority (other than the Authority) of competent jurisdiction shall have issued an order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting the transactions contemplated hereby, and such order, decree, ruling or other action has become final and nonappealable; *provided, however*, that the right to terminate this Concession Agreement under this Section 4.7.1(b) shall not be available to any Party whose failure to comply with any provision of this Concession Agreement

has been the cause of, or resulted in, any order, decree, ruling or other action being imposed or becoming final and nonappealable

(c) by either the Authority or the Concessionaire, upon notice to the other Party if the Closing shall not have occurred as of 11:59 p.m. on the Outside Closing Date, unless such date is extended by mutual agreement of the Parties; *provided, however,* that the right to terminate this Concession Agreement under this Section 4.7.1(c) shall not be available to a Party whose actions or failure to act caused the Closing not to occur;

(d) by the Authority, upon notice to the Concessionaire, if any condition set forth in Section 4.4 remains unsatisfied as of the Time of Closing; *provided, however*, that the Authority shall not have the right to terminate this Concession Agreement under this Section 4.7.1(d) if the Authority's failure to comply with any provision of this Concession Agreement has been the cause of, or resulted in, the failure of such condition or conditions to be satisfied; or

(e) by the Concessionaire, upon notice to the Authority, if any condition set forth in Section 4.5 remains unsatisfied as of the Time of Closing; *provided, however*, that the Concessionaire shall not have the right to terminate this Concession Agreement under this Section 4.7.1(e) if the Concessionaire's failure to comply with any provision of this Concession Agreement has been the cause of, or resulted in, the failure of such condition or conditions to be satisfied.

4.7.2 In the event of termination of this Concession Agreement by either the Authority or the Concessionaire as provided in Section 4.7.1, this Concession Agreement shall forthwith become void and there shall be no liability or obligation on the part of the Authority or the Concessionaire or their respective representatives, except as set forth in Section 4.2.2 and Section 12 and subject to and in accordance with Section 18 and Section 22 and except that no Party shall be relieved or released from any liabilities or damages arising out of its breach of this Concession Agreement (subject to Section 4.2.2 in connection with the Authority's termination of this Concession Agreement pursuant to Section 4.7.1(d)).

4.8 Access Rights Prior to the Time of Closing

Prior to the Time of Closing, the Authority shall provide the Concessionaire with reasonable access to the Site at reasonable times and upon reasonable notice for the purposes described herein. In connection with any access by the Concessionaire to the Site prior to the Time of Closing, the Concessionaire shall provide the Authority with advance written or telephonic notice of such entry upon the Site, including the identity of the company or persons involved with the entry upon the Site and the scope of the activities, and shall conduct such entry and any activities in connection therewith so as to minimize, to the extent reasonably practicable, disruption at the Site and otherwise in a manner reasonably acceptable to Authority. The Concessionaire may proceed with that entry upon the Site and related activity unless the Authority gives the Concessionaire written notice of the Authority's objection to the same within 24 hours after receiving the Concessionaire's notice regarding the entry. The Concessionaire and the Authority agree to negotiate in good faith regarding any objection that the Authority may have with respect to the Concessionaire's entry and activities hereunder. The Concessionaire shall keep the Site and the Port Facilities free and clear of any liens asserted against the Authority, the Site or the Port Facilities as a result of any such entry and activities by the Concessionaire. If any of the activities (including any tests or inspections) disturb the Site, the Concessionaire will restore the Site and Port Facilities to substantially the same condition as existed prior to any such activities. The Concessionaire shall maintain reasonable commercial general liability insurance and automobile liability insurance insuring the Concessionaire and each representative of the Concessionaire against any liability for injury to person or property arising out of or in connection with any entry upon or activities on the Site and all areas appurtenant thereto. The Concessionaire also shall maintain workers' compensation

insurance covering each of its employees. The Concessionaire shall save, defend, indemnify and hold the Authority harmless from any and all Losses, damages, expenses, liens or claims (including attorneys' fees and costs) arising from the Concessionaire's exercise of its access rights hereunder.

SECTION 5.

REPRESENTATIONS AND WARRANTIES

5.1 The Concessionaire

The Concessionaire hereby represents and warrants, as of the Effective Date and as of the Closing Date, that:

5.1.1 the Concessionaire is duly organized and validly existing under the laws of the jurisdiction of the Concessionaire's organization and duly qualified to conduct business in the State. Except as disclosed in the written certification delivered to the Authority prior to the Effective Date (or, to the extent changes in ownership of the Concessionaire are made prior to Closing that would be permitted under the definition of "Change in Control", the Closing Date), no Person owns, directly or indirectly, 20% or more of the capital stock, units, partnership or membership interests and other equity interests or securities of the Concessionaire (including options, warrants and other rights to acquire any such equity interests);

5.1.2 the Concessionaire has the power and authority to enter into this Concession Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by the Concessionaire in accordance with the terms hereof;

5.1.3 this Concession Agreement and the other Project Agreements to which the Concessionaire is a party have been duly executed by the Concessionaire, are legally valid and binding upon the Concessionaire, and do not require any further approval or consent or registration in any form in order to give full force and effect thereto;

5.1.4 The execution and delivery of this Concession Agreement by the Concessionaire, the consummation of the transactions contemplated hereby and the performance by the Concessionaire of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Concessionaire under (a) any Applicable Law, (b) any material agreement, instrument or document to which the Concessionaire or any Equity Participant is a party or by which it is bound or (c) the articles, bylaws or governing documents of the Concessionaire and each of the Equity Participants;

5.1.5 No consent is required to be obtained by the Concessionaire or any Equity Participant from, and no notice or filing is required to be given by the Concessionaire or any Equity Participant to or made by the Concessionaire or any Equity Participant with, any Person (including any Relevant Authority) in connection with the execution and delivery by the Concessionaire of this Concession Agreement or the consummation of the transactions contemplated hereby, except for such consents that have been obtained and notices of filings that have been given as of the Effective Date or such other consents that are not required to be obtained as at the Effective Date and are expected to be obtainable following the Effective Date;

5.1.6 The Concessionaire is in compliance with all Applicable Laws related to its obligations under this Concession Agreement. Neither the Concessionaire or any of its Equity Participants, nor, to the knowledge of the Concessionaire, any Affiliate of the Concessionaire is listed on any of the following lists maintained by the Office of Foreign Assets Control of the United States Department of the Treasury, the Bureau of Industry and Security of the United States Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List or the Debarred List, or on any other list of Persons with which the Authority may not do business under Applicable Law. There is no action, suit or proceeding, at law or in equity, or before or by any Relevant Authority, pending nor, to the best of the Concessionaire's knowledge, threatened against the Concessionaire or any Equity Participant, that would have a material adverse effect on (a) the transactions contemplated by this Concession Agreement or (b) the validity or enforceability of this Concession Agreement;

5.1.7 The Concessionaire is not aware, after making due inquiries, of any proceedings, actions or claims, pending or threatened, against or otherwise involving the Concessionaire or any Equity Participant that would prejudice, in any way, the Concessionaire's ability to fulfill its or their respective obligations under this Concession Agreement and the other Project Agreements to which the Concessionaire is a party;

5.1.8 To the extent the Operator is not the Concessionaire or an Affiliate of the Concessionaire, the Concessionaire shall cause the Operator to deliver to the Authority at Closing an officer's certificate in form and substance acceptable to the Authority in which the Operator represents and warrants as follows: (a) the Operator is duly organized and validly existing under the laws of its place of its organization and is duly qualified to conduct business in the State; (b) except as disclosed in the written certification that the Concessionaire delivered to the Authority prior to the Effective Date, no Person owns, directly or indirectly, 10% or more of the capital stock, units, partnership or membership interests and other equity interests or securities of the Operator (including options, warrants and other rights to acquire any such equity interests); (c) the Operator has the power and authority to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in connection with its engagement by the Concessionaire; (d) the Operator has all necessary expertise, qualifications, experience, competence, skills and know-how and all necessary Authorizations to perform the Port Services in accordance with this Concession Agreement; (e) the Operator is not in breach of any Applicable Law that could have a material adverse effect on its ability to operate the Port Facilities; (f) neither the Operator or any of its Equity Participants, nor, to the knowledge of the Operator, any Affiliate of the Operator is listed on any of the following lists maintained by the Office of Foreign Assets Control of the United States Department of the Treasury, the Bureau of Industry and Security of the United States Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List or the Debarred List, or on any other list of Persons with which the Authority may not do business under Applicable Law; and (g) there is no action, suit or proceeding, at law or in equity, or before or by any Relevant Authority, pending nor, to the best of the Operator's knowledge, threatened against the Operator, that would have a material adverse effect on the Operator's ability to operate the Port Facilities;

5.1.9 neither the Concessionaire nor any of the Concessionaire's officers, directors, employees, agents, advisers or representatives have furnished or offered to furnish any gratuities, favors or anything of monetary value to any State or Authority officers, directors, employees, agents, advisers or representatives engaged by the State or the Authority (or to any member of their families) for purposes of influencing the award of this Concession Agreement; and

5.1.10 no officer or employee of the State, the Authority or any other public agency of the State who has participated in the selection process for the award of, or in negotiations in connection

with, this Concession Agreement (nor any member of their families) has an economic interest in or is connected with the Concessionaire or the Operator, and no officer or employee of the State, the Authority or any other public agency of the State (nor any member of their families) has directly or indirectly participated with the Concessionaire in connection with this Concession Agreement.

5.2 The Authority

The Authority hereby represents and warrants, as of the Effective Date and as of the Closing Date, that:

5.2.1 this Concession Agreement and the other Project Agreements to which it is a party have been duly executed by the Authority, are legally valid and binding upon the Authority, and do not require any further approval or consent or registration in any form in order to give full force and effect to its obligations thereunder;

5.2.2 other than as disclosed in writing to the Concessionaire prior to the Closing Date, the Authority is not aware, after making due inquiries, of any proceedings, actions or claims, pending or threatened, against or otherwise involving (a) the selection process pursuant to which the Concessionaire was awarded the Concession Rights, (b) this Concession Agreement or any of the other agreements executed in connection herewith or (c) the Project; and

5.2.3 the Authority has all necessary rights in respect of the Site and the Port Facilities in order to grant to the Concessionaire the rights therein pursuant to Section 2.1.1(a) of this Concession Agreement.

SECTION 6.

TRANSITION PLAN FOR PORT FACILITIES

6.1 Approval of Transition Plan

The Concessionaire shall, by a date not less than thirty (30) days prior to the anticipated Closing Date, prepare and deliver a Transition Plan to the Authority for approval, which approval shall not be unreasonably withheld or delayed.

6.2 Implementation of Transition Plan

The Concessionaire shall be responsible, at its sole cost, risk and expense, for implementing the Transition Plan.

6.3 Certain Dispositions

The Authority and the Concessionaire agree that, as between the Authority and the Concessionaire:

6.3.1 the Authority shall: (a) be responsible for payment or other satisfaction of any liability, obligation, account payable or commitment of the Authority in connection with the Port Facilities prior to the Closing Date and for the Excluded Obligations set forth in Section 2.7; and (b) be

entitled to retain all revenue in connection with the Port Facilities received prior to the Closing Date or received on or after the Closing Date in respect of accounts receivable generated prior to the Closing Date; *provided, however*, that the Concessionaire shall use its commercially reasonable efforts to provide assistance to the Authority to collect such accounts receivable;

6.3.2 the Concessionaire shall: (a) be responsible for the payment or other satisfaction of any liability, obligation or commitment of the Concessionaire in connection with the performance of the Port Services at the Port Facilities on or after the Closing Date but not including the Excluded Obligations set forth in Section 2.7; and (b) be entitled to establish, collect and retain User Fees for such Port Services performed on or after the Closing Date, subject to the terms and conditions of Section 2.5;

6.3.3 the Concessionaire shall, as part of the Transition Plan, undertake an inventory of all the Fixtures and Fittings and Movable Property at the Site and provide a copy of such inventory to the Authority, and the Authority shall cooperate with the Concessionaire in the preparation of such inventory;

6.3.4 from the Closing Date, the Concessionaire shall be responsible, at its sole, risk cost and expense, for performing the obligations of the Authority under the Existing Contracts assumed by it under the Transition Plan, except to the extent otherwise expressly provided in the Transition Plan;

6.3.5 the Concessionaire shall be responsible for coordinating all Relevant Authorities, national or international organizations, Subcontractors and employees, Vessel operators and other Users as the case may be, with respect to any Regulatory Approvals required for the implementation of the Transition Plan; and

6.3.6 the Authority shall permit the Concessionaire and its Employees, Subcontractors and other representatives to have such access to and to make such inspection of the Site and the Port Facilities as is reasonably necessary to implement the Transition Plan upon the reasonable request of the Concessionaire and subject to the provisions of Section 4.8.

SECTION 7.

COOPERATION WITH OTHER CONTRACTORS; ACCESS

7.1 Cooperation with Other Contractors

7.1.1 The Concessionaire acknowledges and agrees that the Authority and its contractors from time to time may, and shall have the right to, contract for, conduct and perform other or additional work or activities on or near the Site. The Concessionaire shall coordinate its activities with and otherwise cooperate with the Authority and its contractors to the extent reasonably necessary for the performance by such contractors of their work (including without limiting the generality of the foregoing, by providing access to the Site and such information, reports or other documentation as may be necessary or appropriate in connection therewith), and shall cause its employees, agents, officers and Subcontractors and other Persons for whom the Concessionaire may be contractually or legally responsible to so cooperate. If other separate contracts are awarded by the Authority or its contractors that affect the Project, the Site or the Port Facilities, the Concessionaire shall coordinate its activities with and cooperate with the Authority and/or its contractors and their respective contractors and shall otherwise exercise its rights and perform its obligations under this Concession Agreement without interfering with or hindering the progress or completion of the work being performed by the Authority or its contractors.

7.1.2 If the Concessionaire asserts that a contractor of the Authority has hindered or interfered with the exercise of its rights and/or performance of its obligations under this Concession Agreement, then the Concessionaire's sole remedy shall be to seek recourse against such contractor. The Concessionaire shall have the right to seek dispute resolution pursuant to Section 18, *provided* that such contractor has agreed to submit the dispute to resolution pursuant to Section 18, and *provided, further* that such proceeding shall be conducted at no cost to the Authority.

7.2 Access

7.2.1 The Concessionaire shall permit the Authority, any other Relevant Authorities, their respective contractors and subcontractors and their respective employees and agents to enter the Site and any other relevant areas at such times and as often as may be necessary for purposes of performing and implementing this Concession Agreement, any other Project Agreement and the Project generally, or inspecting any aspect thereof. To the extent that the Authority and its contractors, subcontractors and employees exercise access rights pursuant to this Section 7.2 and subject to Applicable Law, the Authority shall (i) provide the Concessionaire with reasonable prior notice under the circumstances, (ii) agree to schedule such access at a time that is reasonably convenient to the Concessionaire, and in any instance at such that will not cause a material and adverse impact on Concessionaire's performance of the Port Services, and (iii) strictly abide by any safety and operational requirement of the Site at the instruction of the Concessionaire's employees working at the Site.

7.2.2 The Authority reserves for itself and its representatives, the right and shall have the right to enter the Site and any other relevant areas at all times during the Concession Period, without an obligation to provide reasonable prior notice under the circumstances or an obligation to avoid causing Undue Interference, in the following circumstances:

(a) if a Concessionaire Event of Default then exists, to make any necessary repairs to the Port Facilities or the Site, perform any work therein and take any reasonable actions in connection with such Concessionaire Event of Default; and

(b) in the event of an Emergency, to take, at such times as the Authority determines necessary in its discretion and with contemporaneous notice to the Concessionaire if practicable under the circumstances, such actions as the Authority or such designee determines necessary to respond to or to rectify such Emergency.

7.2.3 Notwithstanding the terms of this Concession Agreement, the Concessionaire acknowledges that pursuant to Section 11 of that certain Memorandum of Understanding, dated on or about June 23, 2016, by and among CTDOT, the Authority and the Treasurer of the State, the State reserves the right to access and use a portion of the Port Facilities to berth the CTDOT ferry, Selden III, or its successor ferry (the "Ferry") from approximately December 1 through April 1, each year, in accordance with the following:

(a) The Authority and Concessionaire will use reasonable efforts to coordinate the Ferry berthing and such use will not materially interfere with the operations of Concessionaire; provided however that if at any time such berthing causes material and adverse interference with the operation of the Concessionaire, the Authority agrees to use commercially reasonable efforts to find a suitable alternative location for the berthing thereafter.

(b) The State shall, to the extent practicable, provide reasonable prior notice to the Authority and Concessionaire regarding the anticipated arrival of the Ferry, and Concessionaire shall reserve and designate a location at the Port Facilities to accommodate this request.

(c) The Concessionaire agrees to accommodate the berthing of the Ferry without charging dockage, mooring or labor costs.

(d) The Authority and Concessionaire agree that, upon assignment or termination of the Agreement, the State's right to berth the Ferry shall survive and the State will coordinate with the Authority for compliance with this Section 7.2.3.

7.3 Police, Fire, Emergency and Public Safety Rights

Notwithstanding any other provision of this Concession Agreement, at all times during the Concession Period and without notice or compensation to the Concessionaire, to the extent necessary for management of an Emergency (including the prevention of or response to an Emergency), the following shall be applicable: (a) any police, fire and emergency services and any other security or emergency personnel, including the armed forces, and any Relevant Authority with jurisdiction over the Port Facilities or the Site shall have access to the Port Facilities and the Site; (b) any police, fire and emergency services and any other security or emergency personnel, including the armed forces, and any Relevant Authority with jurisdiction over the Port Facilities or the Site may close the Port Facilities and the Site; and (c) any Relevant Authority with jurisdiction over the Port Facilities or Site may adopt an Applicable Law relating to such emergency management and homeland security purposes.

SECTION 8.

PORT OPERATIONS

8.1 Responsibility of the Concessionaire to Provide Port Services

The Concessionaire hereby agrees to, at its own cost and expense, comprehensively administer, manage, operate and maintain the Port Facilities, and provide, or procure the provision of: (a) the Port Services at the Site for the duration of the Concession Period; and (b) otherwise perform all obligations of the Concessionaire set forth in this Concession Agreement, all of the foregoing in each case:

8.1.1 in accordance with this Concession Agreement (including its Annexes);

8.1.2 in accordance with the Port Operations Manual;

8.1.3 in accordance with the Port Standards and all other Applicable Laws and Regulatory Approvals (including Environmental Permits);

8.1.4 in accordance with Good Industry Practice; and

8.1.5 so as to permit performance and observance of, and compliance with, all obligations and provisions to be performed, observed and complied with on the part of the Authority under this Concession Agreement.

8.2 Personnel; Operator

8.2.1 The Concessionaire or the Operator, at the sole cost and expense of the Concessionaire or the Operator, as applicable, shall:

(a) employ at the Port Facilities, or cause to be employed at the Port Facilities, the number of trained, experienced Employees or other personnel sufficient to operate the Port, provide the Port Services in accordance with the Port Operations Manual, the Port Standards, all Applicable Laws and Good Industry Practice (acknowledging the Authority's goal that the Concessionaire cultivate and maintain a strong and productive relationship with the International Longshoreman's Association);

(b) provide regular, ongoing training and professional programs for all Employees as required by the Port Operations Manual, the Port Standards, all Applicable Laws and Good Industry Practice; and

(c) ensure that all Employees and other personnel shall have the skill and experience and any licenses or other Regulatory Approvals required to perform the functions assigned to them.

(d) in recognition of the importance of the role that unionized labor has had and will have in relation to the development and operation of the Site and the Port Facilities, (i) negotiate in good faith with the International Longshoreman's Association with respect to the employment of their members at the Port Facilities and (ii) consider the use of a project labor agreement, as applicable, to ensure the continuation of the Authority's commitment to the development of local jobs.

8.2.2 During the performance of this Concession Agreement, the Concessionaire agrees that it will not intentionally discriminate against any Employee or applicant for employment because of race, color, religion, sex, national origin or any other classification as may be required by Applicable Law. The Concessionaire agrees to: (a) post in conspicuous places, available to Employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause; and (b) in all solicitations or advertisements for employees placed by or on behalf of the Concessionaire, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, national origin or any other classification as may be required by Applicable Law.

8.2.3 The Port Services shall, at all times during the Concession Period, be under the direction and supervision of an active operator with the expertise, qualifications, experience, competence, skills and know-how and all necessary Regulatory Approvals to perform the Port Services in accordance with this Concession Agreement (an "**Operator**"). As of the Closing Date, the Operator shall be the Concessionaire or its Affiliate (so long as the Concessionaire or such Affiliate possesses the expertise, qualifications, experience, competence, skills and know-how and all necessary Regulatory Approvals to perform the Port Services in accordance with this Concession Agreement) or another Person designated by the Concessionaire and approved by the Authority (based upon a determination in accordance with Section 8.2.4). The Concessionaire shall not engage or appoint a replacement Operator unless the Authority has approved such Operator (based upon a determination in accordance with Section 8.2.4) or such replacement Operator is the Concessionaire or an Affiliate of the Concessionaire, in which case no such approval shall be required. The Operator shall at all times be subject to the direction, supervision and control (by ownership, contract or otherwise) of the Concessionaire, and any delegation to an Operator shall not relieve the Concessionaire of any obligations, duties or liability hereunder. The arrangement with the Operator must be subject to and consistent with this Concession Agreement, including imposing obligations on the Operator to comply with the Port Operations Manual, the Port Standards and Applicable Law and to operate the Port Facilities in accordance with Good Industry Practice. In the event the Operator suffers any action described in Section 15.1.12, the Authority may demand that the Operator be replaced. Upon such demand, the Concessionaire shall immediately replace the Operator in accordance with Section 8.2.4. For purposes of this Concession Agreement, the Concessionaire shall be responsible for the actions of the Operator. The Concessionaire shall immediately notify the Authority upon the termination or resignation of an Operator. The Operator shall

have no interest in or rights under this Concession Agreement, the Site or the Port Facilities unless the Operator is the Concessionaire itself.

8.2.4 The Authority's approval of a proposed Operator (other than the Concessionaire or its Affiliates as provided above) may be withheld if the Authority determines, acting reasonably, that the engagement of such proposed Operator is prohibited by Applicable Law or such proposed Operator is not capable of performing the Port Services in accordance with this Concession Agreement, which determination shall be based upon and take into account the following factors: (a) the financial strength and integrity of the proposed Operator, its direct or indirect beneficial owners and each of their respective Affiliates; (b) the experience of the proposed Operator in operating marine container shipping terminals and operating other relevant projects; (c) the background and reputation of the proposed Operator, its direct or indirect beneficial owners, each of their respective officers, directors and employees and each of their respective Affiliates (including the absence of criminal, civil or regulatory claims or actions against any such Person and the quality of any such Person's past or present performance on other projects); (d) the terms of the agreement between the Concessionaire and the Operator and (e) such other factors as the Authority reasonably determines to be relevant. Any proposed replacement Operator also shall be required to deliver to the Authority an officer's certificate in which the replacement Operator makes representations and warranties covering the matters set forth in Section 5.1.8. Any disputes between the Authority and the Concessionaire with respect to the appointment or replacement of the Operator shall be settled in accordance with the provisions of Sections 18 and 20.

8.2.5 Notwithstanding the foregoing, in the event that, upon termination or resignation of the Operator, a replacement Operator has not been approved by the Authority in accordance with Section 8.2.4, the Concessionaire shall have the right to appoint, for a period not to exceed one year, an interim Operator to operate the Port Facilities until a replacement Operator can be selected pursuant to this Concession Agreement. This interim Operator may be selected without approval by the Authority required under the terms of Section 8.2.4 so long as the interim Operator meets the following criteria: (a) the interim Operator has experience in operating comparable port facilities; (b) the interim Operator (or any guarantor of its obligations) has a tangible net worth reasonably sufficient to carry out its obligations and responsibilities as Operator; and (c) the interim Operator delivers to the Authority an officer's certificate covering the matters set forth in Section 5.1.8. The Concessionaire shall not extend the term of any interim Operator beyond one year, unless the qualification of the replacement Operator is subject to a dispute, in which case the one-year period shall be extended until the conclusion of the dispute resolution process.

8.3 Concessionaire Services Change

8.3.1 The Concessionaire may at any time during the Concession Period submit to the Authority any proposed revision to or substitution for the Port Services (a "**Concessionaire Services Change**") together with supporting documentation and a written explanation of the reasons for the proposed change. Within forty-five (45) Business Days, the Authority shall notify the Concessionaire whether or not it objects to the proposed Concessionaire Services Change. The Concessionaire shall not proceed to implement a proposed Concessionaire Services Change until the Authority has provided its approval of the proposed Concessionaire Services Change, which approval may be granted or withheld in the Authority's discretion. The Concessionaire shall remain responsible for all payment obligations required by this Concession Agreement regardless of the status of the approval (or rejection) of any such proposed Concessionaire Services Change.

8.3.2 The Concessionaire shall bear all the financial consequences of a Concessionaire Services Change.

8.4 Defaults

In the event that the Concessionaire becomes aware of any Default, the Concessionaire shall forthwith notify the Authority of such Default and as soon as reasonably practicable submit to the Authority:

8.4.1 a full statement of the circumstances in which the Default took place together with a full explanation of the reasons for the Default and, if appropriate, for any delay in providing notification;

8.4.2 a full statement of the measures, if any, which the Concessionaire proposes to adopt in order to rectify the Default or to preclude or mitigate the consequences of it (if any); and

8.4.3 if the Default relates to a variation in Port Services, an application for a Concessionaire Services Change.

8.5 Authority Services Change

The Authority may at any time during the Concession Period submit to the Concessionaire any proposed revision to or substitution for the Port Services (an "**Authority Services Change**"), in which case the following procedure shall apply:

8.5.1 The Authority shall give to the Concessionaire notice indicating the nature of the proposed Authority Services Change;

8.5.2 As soon thereafter as may be reasonably practicable, and in any event within thirty (30) Business Days after receipt by the Concessionaire of the notice referred to in Section 8.5.1, the Parties shall meet in good faith to discuss the proposed variation, the Authority providing such further information as the Concessionaire may reasonably request, including detailed information as to Authority's requirements and its proposals for their implementation; and

8.5.3 Within sixty (60) Business Days after the receipt by the Concessionaire of the notice referred to in Section 8.5.1 above, the Concessionaire shall, acting reasonably and in good faith, submit to Authority:

(a) detailed proposals for any modification of the Port Services necessary to implement the Authority Services Change;

(b) detailed proposals as to any modifications in User Fees necessary to reflect the anticipated costs or savings to the Concessionaire and the anticipated effect (if any) on revenue the Concessionaire can expect to realize over the Concession Period (both before and after giving effect to such modifications) as a consequence of complying with the proposed Authority Services Change;

(c) such other detailed proposals as may be necessary in the reasonable opinion of the Concessionaire for the implementation of the proposed Authority Services Change or as a consequence thereof; and

(d) its written opinion as to whether the proposed Authority Services Change would adversely affect the Port Facilities or the provision of the Port Services, accompanied by the grounds for such opinion (and, in the event that the Authority questions the Concessionaire's opinion or grounds, the

Parties shall meet and acting in good faith shall use reasonable endeavors to reach agreement on the matter).

8.5.4 In the event that the Concessionaire's proposals submitted pursuant to Section 8.5.3 above are agreed, the Authority shall issue an Authority Services Change within forty-five (45) Business Days in respect thereof and the Concessionaire shall give effect thereto in such manner as may be agreed between the Authority and the Concessionaire.

8.5.5 If no agreement is reached in relation to the proposals referred to in Section 8.5.3 above, the Parties shall meet and acting in good faith shall use reasonable endeavors to reach agreement in relation thereto. In the absence of agreement, either Party may refer the matter to dispute resolution pursuant to Section 18 for a determination of the question of what (if any) changes in Port Services or changes in User Fees would be reasonable in the circumstances. After a determination has been made pursuant to Section 18, the Authority may, but shall not be obliged to, issue the Authority Services Change, in which case the Concessionaire shall give effect thereto and the term "Port Services" shall be deemed amended accordingly (and each Party shall confirm such amendment to the other Party in writing upon request by such other Party) and the determination rendered pursuant to the Section 18 shall be given effect by the Parties.

8.6 Updating Port Operations Manual

From time to time during the Concession Period when so requested by Authority, the Concessionaire shall prepare and submit to Authority an amended and restated version of the Port Operations Manual containing, among other things, such revisions as have been given effect in accordance with Section 8.3 and Section 8.5 above, or as may be required by Applicable Law.

8.7 Notice of Inspections

8.7.1 Without prejudice to the rights of the Authority under Section 10, the Concessionaire shall give the Authority timely notice of any general inspection or any other inspection of Port Facilities to be conducted in accordance with this Concession Agreement or otherwise.

8.7.2 The Authority and its representatives shall be entitled to attend any inspection of the Port Facilities (whether or not it is entitled to receive or has received notice thereof in accordance with Section 8.7.1 above) upon giving reasonable notice to the Concessionaire.

8.8 Efforts to Maximize Throughput Volumes at the Port

8.8.1 The Concessionaire shall use its best efforts to maximize Throughput Volume at the Port Facilities during the Concession Period, which best efforts shall include the following:

(a) Utilizing the best efforts of the Concessionaire to increase the volume of rail-based traffic in respect of the Site and the Port Facilities; and

(b) All operations of Concessionaire shall be conducted:

(i) In a fair, safe, efficient and economic manner at a cost which is competitive with other ports and other modes of transportation and in a manner that demonstrates a high degree of concern for and response to the wants and needs of customers and improves the existing quality of services delivered to customers at competitive rates;

(ii) So as to effectively market the use of the Port Facilities by current and future exporters and importers of all lawful, water-transported cargoes; and

(iii) So as to maximize the revenues of the Port Facilities and Authority that is consistent with fair pricing and increasing commerce at the Port Facilities, while providing all management and supervision, labor, equipment, expertise, and effort required to fully and completely manage and operate stevedoring, line handling, and warehouse management operations within the Port Facilities so as to compete within the market of Authority.

(c) During the Concession Period of this Concession Agreement, Concessionaire agreed to provide, or have provided, the following services for bulk, project, and break-bulk cargoes;

(i) Line handling;

(ii) Loading and unloading of vessels, barges, railcars, trucks, containers, and all other means of transportation; and

(iii) General management of the warehouses and open storage of the Port Facilities.

8.8.2 The Concessionaire and the Authority shall use reasonable efforts to work cooperatively to market the Port Facilities to maximize Throughput Volume at the Port Facilities

8.9 Access for Users

8.9.1 The Concessionaire shall at all times allow access to the Site and the Port Facilities for Users and their agents and shall not impose any restrictions upon Users or their agents or unfairly discriminate between them.

8.9.2 The Concessionaire shall maintain sufficient cargo facilities on a public, nonexclusive basis and upon reasonable terms through the Concession Period.

8.10 Archeological Remains

The Concessionaire hereby acknowledges that any fossils, coins, articles of value or antiquity or other similar remains are and shall remain the property of the State and/or the Authority, in accordance with Applicable Law. In the event of the discovery of any such items at the Site on or after the Closing Date, the Concessionaire shall immediately inform the Authority and shall: (a) if the items discovered are movable, allow the Authority or any Relevant Authority to enter the Site and effect their removal, at no cost to the Concessionaire; or (b) allow the Authority or any Relevant Authority to effect such investigations as are required by Applicable Law or otherwise deemed necessary at the Authority's expense.

8.11 Sub-letting; Subcontracts

8.11.1 The Concessionaire shall not have the right to sub-let the whole or any part of the Port Facilities or the Port Services to any Person without the prior written consent of the Authority, which consent shall not be unreasonably withheld or delayed.

8.11.2 Notwithstanding any Subcontract, the Concessionaire shall remain liable, and responsible to the Authority, for the execution of the Port Services in accordance with this Concession

Agreement and otherwise responsible for the acts and omissions of any Subcontractor while carrying out any Subcontract as fully as if they were the acts and omissions of the Concessionaire.

8.11.3 All Port Services or other works or services performed or supplied by a Subcontractor shall be performed or supplied pursuant to an appropriate Subcontract. Any material Subcontract shall, as appropriate, contain provisions in form and substance reasonably satisfactory to the Authority that:

(a) reasonably preserve and protect all the rights of the Authority under this Concession Agreement;

(b) require that any Port Services or other works or services undertaken by such Subcontractor be performed in strict accordance with the requirements of this Concession Agreement, including compliance with all Applicable Laws, the Port Operations Manual, the Port Standards, Good Industry Practice and the Insurance Requirements;

(c) obligate each Subcontractor to consent to and be bound by those obligations under this Concession Agreement which, by their terms, are intended to also obligate Subcontractors, including the provisions of this 8.11.3; and

(d) require each Subcontractor to provide and maintain adequate insurance consistent with its obligations under the Subcontract.

8.11.4 Notwithstanding any Subcontract or other agreement with any Subcontractor, the Concessionaire shall be fully responsible for all of its obligations under this Concession Agreement. The Authority shall not be bound by any Subcontract, and no Subcontract shall include a provision purporting to bind the Authority. Each Subcontract shall include the following provision:

> "Nothing contained herein shall be deemed to create any privity of contract between the Authority and the Subcontractor, nor does it create any rights, claims, duties, obligations, or liabilities on the part of the Authority to the Subcontractor. In the event of any claim or dispute arising under the Subcontract and/or this Concession Agreement with the Authority, the Subcontractor shall look only to Concessionaire for any payment, redress, relief, or other satisfaction. The Subcontractor hereby waives any claim or cause of action against the Authority arising out of the Subcontract or otherwise arising in connection with the Subcontractor's work."

8.11.5 The Concessionaire agrees to hold all Subcontractors, including all Persons directly or indirectly employed by them, responsible for any Losses due to breach of contract or any negligent or willful act and to diligently endeavor to effect reimbursement for such Losses.

8.11.6 Without limiting the generality of Section 8.11.1:

(a) the Concessionaire may not engage in any sub-letting or Subcontract relationship with any wind energy company for the use of any of the Site and the Port Facilities for purposes of the receiving, storage and transportation of equipment concerning the generation, storage and transmission of wind-powered energy without the prior approval of the Authority, which approval shall be within the Authority's discretion. The approval of the Authority expressly may be conditioned upon the entering into of amendments to this Concession Agreement or separate agreements by or among the Authority, the Concessionaire and such wind energy company or companies, all as may be satisfactory to the Authority. The Concessionaire and the Authority shall use their respective reasonable efforts to cooperate with one

another in respect of any such sub-let or Subcontract relationship, including the negotiation, execution and delivery of any amendments to this Concession Agreement or any separate agreements pertaining to such sub-let or Subcontract; and

(b) the Concessionaire shall be required to obtain the consent of the Authority (which consent shall not be unreasonably withheld, conditioned or delayed) for any customer arrangements or contracts that (i) require the use of more than fifteen percent (15%) of the available storage space of the Port Facilities and (ii) exceed, as of the commencement of such arrangement or contract, four (4) years in length (it being understood that the Concessionaire shall inform the Authority of the basic terms and conditions of such customer arrangement or contract (whether in the form of a draft document or otherwise) as soon as such is available and shall provide the Authority a substantially final version of such for consent not later than seven (7) Business Days prior to proposed execution); *provided* that the Authority shall be deemed to have provided consent upon the expiration of such seven (7) Business Day period if the Authority has not responded to the Concessionaire's proposed execution version.

8.12 Warranties

8.12.1 Throughout the Concession Period, the Concessionaire shall comply with all requirements related to the Warranties, including all specifications for the design of the Port Facilities.

8.12.2 The Concessionaire, at any time during the Concession Period, shall have the right to request, by written notice, that the Authority assign the Warranties, and upon receipt of such request by the Authority, the Authority shall promptly assign the Warranties to the Concessionaire; *provided, however*, that to the extent that the Authority has already undertaken actions to enforce any such Warranty, the Authority shall not be obligated to assign such Warranty to the Concessionaire during the pendency of such enforcement.

8.12.3 To the extent that the Concessionaire determines that a claim exists under any Warranty that has not been assigned to the Concessionaire, the Authority shall, upon written notice from the Concessionaire, undertake actions to enforce any such Warranty within 15 Business Days.

8.12.4 Upon any assignment of the Warranties by the Authority to the Concessionaire, the Authority shall use reasonable efforts to cooperate and assist the Concessionaire in enforcing rights and remedies under the Warranties.

8.13 Single Purpose Covenants

The Concessionaire shall, at all times during the Concession Period; (a) be formed and organized solely for the purpose of owning the Concessionaire Rights and using, possessing, leasing and operating the Port Facilities and collecting User Fees with respect to and otherwise dealing with the Port Facilities (and carrying out other activities permitted pursuant to this Concession Agreement (and any activities reasonably incidental thereto)); (b) not engage in any business unrelated to clause (a) above; (c) not have any material assets other than those reasonably related to its activities in accordance with clauses (a) and (b) above; (d) except as appropriate for Tax reporting purposes, maintain its own separate books and records and its own accounts; (e) observe all corporate, limited partnership or limited liability company, as applicable, formalities and do all things necessary to preserve its existence; (f) except as expressly permitted hereby or by any Security Interest or in connection in the ordinary course of business of the Port Facilities, not pledge its assets for the benefit of any other Person or guarantee or otherwise obligate itself with respect to the debts of any other Person; and (g) maintain adequate capital in light of its contemplated business operations.

8.14 Finance Obligations

8.14.1 Concessionaire's Finance Obligations

Except in those instances where the Authority is required to provide the funding of costs and expenses related to the Authority's obligations hereunder, the Concessionaire shall be responsible for obtaining any financing for the performance of its obligations under this Concession Agreement. The Concessionaire shall provide reasonable notice to the Authority of the material terms of any such financing. The material terms of any such financing shall comply with all requirements of this Concession Agreement.

8.14.2 Authority's Finance Obligations

(a) *Concessionaire Financing.* The Authority shall, to the extent consistent with Applicable Law and at the sole cost and expense of the Concessionaire, cooperate with the Concessionaire with respect to documentation reasonably necessary to obtain, maintain and replace financing for the performance of the obligations of the Concessionaire hereunder. The Authority's cooperation may include reviewing, approving and executing documents which substantiate the terms of this Concession Agreement and responding to reasonable requests for available information and material to furnish to any Security Holder to facilitate financing to the extent permitted by Applicable Law and contractual obligations with third parties and to the extent the Authority considers reasonable in the circumstances. If requested to do so by the Concessionaire, the Authority shall, at the sole cost and expense of the Concessionaire, use its reasonable efforts to cause the Authority's then independent public accountants to consent to the use and inclusion of certain financial information regarding the Port Facilities in connection with the Concessionaire's public or private offering of securities, as the case may be. In addition, the Authority shall, promptly upon the request of the Concessionaire or a Security Holder, execute, acknowledge and deliver to the Concessionaire, or any of the parties specified by the Concessionaire, standard consents and estoppel certificates with respect to this Concession Agreement which may be qualified to the best of the knowledge and belief of a designated representative of the Authority. Nothing herein shall require the Authority to incur any additional obligations or liabilities or to take any action, give any consent or enter into any document inconsistent with or in violation of any Applicable Law or the provisions of this Concession Agreement. The Authority acknowledges and agrees that any new debt or other obligations undertaken by the Authority after the Effective Date may not be secured by any of the Site or the Port Facilities. Notwithstanding the foregoing, nothing herein is intended to prevent the Authority from encumbering its interest in revenues that the Authority has a right to receive from the Concessionaire under this Concession Agreement.

(b) *Governmental Financing Assistance.* The Authority, upon the request of the Concessionaire, shall reasonably consider and, if determined to be acceptable to the Authority, shall (i) seek or cooperate with the Concessionaire's efforts to obtain grants or loans from Relevant Authorities or (ii) provide or cooperate with the Concessionaire's efforts to obtain debt financing assistance through the issuance of special purpose bonds (including "special facility bonds" that may be issued by the Authority on behalf of the Concessionaire to the extent permitted under the Authority's bond financing documents) or from other financing programs for which the Concessionaire or the Authority may be eligible; *provided* that the Concessionaire agrees to comply with all applicable policies and practices of the Authority in connection with such programs (including the right of the Authority to designate the bond counsel, the tax counsel, the financing advisers, the underwriters, and any other advisors in connection with such matters and to require third party credit support for the transaction), and to reimburse the Authority for all costs and expenses incurred by the Authority in connection therewith. Nothing in this Section 8.14.2(b) shall obligate the Authority (A) to advocate or recommend the enactment or adoption of any federal or State legislation or regulations, or (B) to cooperate with the Concessionaire in connection with the actions

described in the first sentence of this Section 8.14.2(b) if (1) the Authority is required to commit to the expenditure or allocation of Authority funds in connection with such request or (2) such cooperation could have any adverse effect on the Authority, its properties, finances or financial statements.

8.14.3 Concessionaire's Obligation for Estoppel Certificates.

The Concessionaire shall, promptly upon the request of the Authority, execute and deliver to the Authority, or any of the parties specified by the Authority, standard consents and estoppel certificates with respect to this Concession Agreement which may be qualified to the best of the knowledge and belief of a designated representative of the Concessionaire. Nothing herein shall require the Concessionaire to incur any additional obligations or liabilities or to take any action, give any consent or enter into any document inconsistent with Applicable Law and the provisions of this Concession Agreement

SECTION 9.

MAINTENANCE; CONSTRUCTION; CAPITAL IMPROVEMENTS

9.1 Routine Maintenance

The Concessionaire shall, at its own cost and expense, maintain the Site and the Port Facilities, including the Cranes, in good, sanitary working condition, in a manner safe to personnel and to the public, in accordance with Annex B (Port Services) (including any applicable Handback Requirements), the Port Operations Manual, the Port Standards, Good Industry Practice and all Applicable Laws and Regulatory Approvals.

9.2 Replacement

In addition to performing the preventative maintenance and regular corrective maintenance in accordance with Section 9.1, the Concessionaire shall, at its own cost and expense: (a) periodically overhaul, rehabilitate, refurbish or replace components of the Site and the Port Facilities, including the Cranes, in order to ensure that the Project remains safe, efficient to operate and maintain and in good repair; and (b) replace any Project element that has reached the end of its design life, cannot be maintained to perform within the limits specified in its original design, exhibits a measurably higher failure rate or ceases to be economical to maintain due to wear, damage or obsolescence.

All such maintenance or replacement work shall conform to the original specifications of such component or Project element, unless otherwise agreed by the Authority in writing.

9.3 Repairs

If any part of the Site or the Port Facilities, including the Cranes, are damaged or destroyed by fire, weather conditions or other casualty, however caused, the Concessionaire shall, at its own cost and expense, promptly restore the damaged or destroyed Site or Port Facilities to substantially their original condition. In performing this obligation the Concessionaire shall be entitled to use any available insurance proceeds obtained in respect of such damage or destruction for such purpose.

9.4 Capital Improvements Commitment

9.4.1 During the initial 20-year Concession Period, the Concessionaire shall undertake and expend not less than Thirty Million Dollars (USD 30,000,000) in Capital Improvements, Movable Property, Fixtures and Fittings, and Cranes which shall include the expenditure of not less than Ten Million Dollars (USD 10,000,000) in each of the first ten (10) years of the Concession Period and second ten (10) years of the Concession Period (the "**Capital Improvements Commitment**"). Not more than Ten Million Dollars (USD 10,000,000) of capital maintenance expenditures may be allocated in satisfaction of the Capital Improvements Commitment. For the avoidance of doubt, the calculation of the Capital Improvement Commitment shall include the actual fair market value of any Movable Property, Fixtures and Fittings, and Cranes (demonstrated in accordance with the immediately succeeding sentence) that Concessionaire brings to the Site regardless of whether such fair market value constitutes the out of pocket cost of the Concessionaire (*e.g.*, whether such items are subject to capital lease or otherwise). Such fair market value of any Movable Property, Fixtures and Fittings, and Cranes shall be confirmed by the Concessionaire's audited annual financial statements delivered in accordance with Section 10.6 hereof or, if not included in such audited annual financial statements, confirmed by an independent appraisal conducted by a third-party appraiser selected by the Concessionaire (subject to the reasonable approval of the Authority).

9.4.2 Upon the completion of any Capital Improvements authorized hereunder, all relevant additional parcels and improvements with respect to such Capital Improvements shall be considered a part of the Site and the Port Facilities, as the case may be.

9.5 Capital Improvements

(a) Capital Improvements Generally.

(i) Proposed by the Concessionaire. During the Concession Period, the Concessionaire may propose Capital Improvements to the Authority by submitting a proposal including (A) any preliminary design necessary for the Authority to evaluate the Capital Improvement, (B) a cost sharing proposal, if any. The costs for Capital Improvements proposed by the Concessionaire shall be paid as proposed by the Concessionaire and as mutually agreed by the Parties.

(ii) Proposed by the Authority; No Consent by Concessionaire Required. During the Concession Period, the Authority may propose and construct Capital Improvements that will be financed by the Authority or the State or a third party other than Concessionaire. The Concessionaire shall not have any right to consent or otherwise approve of any such Capital Improvements to be undertaken by the Authority, the State or a third-party under an agreement with the Authority or the State; *provided* that no such Capital Improvement to be undertaken by the Authority, the State or a third-party may materially and adversely interfere with the operations of the Concessionaire at the Port Facilities and *provided further, however*, that the Concessionaire and the Authority acknowledge that the potential development and use, by BSW, of all or a portion of the Port Facilities and the Site for the purposes of the receiving, storage and transportation of equipment concerning the generation, storage and transmission of off-shore wind-energy power is contemplated by this Concession Agreement and that any Capital Improvements in respect of the BSW development is agreed by the Concessionaire to not interfere with the Concessionaire's operations of the Port Facilities.

(iii) No Capital Improvements Without Authority Consent. The Concessionaire shall not make Capital Improvements without the prior written approval of the Authority. Any Capital Improvements made by the Concessionaire shall be for the benefit of the Authority, and shall remain on the Port Facilities after the end of the Concession Period. The cost of such Capital Improvements shall be borne solely by the Concessionaire without any reimbursement or payment from the Authority.

(iv) Maintenance or Repair Not Capital Improvements. No maintenance or repair required to be performed by the Concessionaire pursuant to the terms of this Concession Agreement shall constitute a Capital Improvement for which the Authority shall be financially responsible.

(v) Capital Improvements Insurance and Other Third Party Payments. To the extent that any Capital Improvement costs that are incurred pursuant to this Section can be recovered by the Authority or the Concessionaire from any insurer providing insurance required of Concessionaire pursuant to the terms of this Concession Agreement or from another third party, the Concessionaire shall exercise with due diligence such rights as it may have to effect such recovery. The Concessionaire shall give prompt written notice to the Authority of the receipt of any such recovery which shall be applied as appropriate to the restoration or reconstruction of the Port Facilities. The Concessionaire shall provide the Authority with copies of all documentation, and shall afford the Authority a reasonable opportunity to participate in all conferences, negotiations and litigation, regarding insurance claims which materially affect the Authority's interest under this Concession Agreement. All applicable insurance recoveries shall be applied to reducing the cost of restoration or reconstruction prior to the calculation of the amount of any cost (if any) to be shared by the Parties as arising out of an event of Force Majeure.

(b) Central Vermont Railroad Pier. The Authority shall be solely responsible for the undertaking of capital improvements to the Central Vermont Railroad Pier necessary to rehabilitate the structural deficiencies with the Central Vermont Railroad Pier. Until such time as the Authority completes such rehabilitation work, the Concessionaire shall only be required to maintain and repair the Central Vermont Railroad Pier as is reasonably necessary for the Concessionaire's operation of the Port Facilities; provided however the Concessionaire shall have no obligation to undertake any maintenance or repair of the Central Vermont Railroad Pier that is the result of, or related to, such structural deficiencies. Following the completion by the Authority of such rehabilitation work, the Concessionaire shall maintain, repair and replace the Central Vermont Railroad Pier consistent with the Concessionaire's obligations in respect of the Port Facilities under this Concession Agreement, including the obligations set forth in Section 9.1, Section 9.2 and Section 9.3.

SECTION 10.

INSPECTION AND OVERSIGHT OF CONCESSIONAIRE ACTIVITIES

10.1 Right to Be Kept Informed

During the term of this Concession Agreement, the Concessionaire shall promptly inform the Authority, in writing, of any and all material events or developments that may arise in the course of the Project.

10.2 Inspection; Capital Asset Condition Report

10.2.1 Upon reasonable notice under the circumstances and at the Authority's own cost, the Authority and its representatives or advisors shall have the right to enter the Site for the purpose of observing the activities of the Concessionaire, ensuring the Concessionaire's compliance with its obligations hereunder, and monitoring service levels, provided such inspection shall be in specifically in accordance with the requirements of Section 7.2.1.

10.2.2 Upon reasonable notice under the circumstances, the Authority and its representatives or advisors shall have the right, during normal business hours, to inspect the books, plans, financial records, commercial contracts, and other records and documents belonging to or kept by or on behalf of the Concessionaire with respect to the Project for the purposes of ensuring compliance by the Concessionaire with this Concession Agreement, provided such inspection shall be in specifically in accordance with the requirements of Section 7.2.1.

10.2.3 Upon the fifth anniversary of the Closing Date, and thereafter upon each subsequent fifth anniversary of the Closing Date, the Concessionaire shall deliver to the Authority (at the sole cost and expenses of the Concessionaire) a capital asset condition report detailing the condition of the Site and the Port Facilities relative to the condition of the Site and the Port Facilities as required by this Concession Agreement and identifying any deficient conditions.

10.3 Appointment of Auditors

The Concessionaire shall, at its sole cost and expense: (a) put in place an accounting and cost control system; and (b) retain a firm of independent accountants of recognized international standing and expertise, reasonably acceptable to the Authority, as auditors of the Concessionaire. The Concessionaire shall prepare and maintain its accounts in accordance with Applicable Law and Accounting Principles.

10.4 Quarterly Financial and Operations Reports

The Concessionaire shall, within 30 days after the end of each calendar quarter after the Closing Date, provide to the Authority a detailed report regarding the Concessionaire's: (a) financial results with respect to operations, including: (i) Throughput Volume for such quarter and (ii) depreciation, amortization and other similar charges and amounts; and (b) information regarding operations, unforeseen occurrences, accidents, injuries, damages, Losses, and any disruptions or suspensions during the preceding calendar quarter.

10.5 Vessel Reports

The Concessionaire shall deliver to the Authority on a ship-by-ship basis quarterly reports on a form to be provided by the Authority summarizing all Vessel movements and all cargo loaded, discharged or transshipped at the Port Facilities ("**Vessel Report**"). Vessel Reports shall include vessel arrival and departure details and data on cargo tonnages discharged, loaded or transshipped at the Port Facilities.

10.6 Annual Reports

The Concessionaire shall, as soon as available but in any event by May 31 of each year, furnish to the Authority a copy of its complete financial declaration for such fiscal year, including its audited annual financial statements prepared in accordance with Accounting Principles.

10.7 Reports and Information Regarding Disruption and Suspension

The Concessionaire shall, within seven (7) days of any disruption, closure or interruption of all or any portion of the Site, the Port Facilities or the Port Services, provide the Authority with a report detailing the circumstances of such disruption or closure. The Authority has the right to request any and all reasonable information from the Concessionaire relating to any disruption or closure of the Site or the Port Facilities, or any disruption or interruption of the Port Services, such requests to be complied with within ten (10) Business Days.

10.8 Annual Environmental Report

Unless otherwise agreed in writing with the Authority, the Concessionaire shall prepare and provide the Authority with an Annual Environmental Report (the "**Annual Environmental Report**") within sixty (60) days after the end of each of the Concessionaire's fiscal years. The Annual Environmental Report shall address the environmental issues related to or arising in connection with the Project and shall include, at a minimum, the following: (a) a detailed description of any ongoing or pending Environmental Matter affecting or arising in connection with the Project or any such Environmental Matter resolved or closed during the preceding fiscal year; (b) a detailed description of any facts, circumstances or conditions that are reasonably likely to result in any Environmental Matter affecting or arising in connection with the Project; (c) a discussion of any new, pending or anticipated requirement under any Environmental Law which is reasonably likely to impact the Project or the operations of the Project or would prevent the Concessionaire from renewing, maintaining or obtaining any Environmental Permit required under any Environmental Law; and (d) a discussion of the various steps or measures the Concessionaire has taken or will take to address the matters discussed in (a), (b) or (c). At its discretion, the Authority may or may not make the Annual Environmental Report available to the public.

10.9 Vessel Manifest Reports

The Concessionaire shall provide the Authority with prompt (and in all cases not later than 24 hours prior to the scheduled arrival of such vessel) notice and copies of all vessel schedules, manifests, bills of lading and waybills. Such information shall be provided to the Authority by the Concessionaire so as to permit the Authority to have real-time notification of such activity as is reasonably practicable under the circumstances.

10.10 Incident Reports

The Concessionaire shall promptly (and in all cases within 12 hours) notify the Authority of (i) all Emergencies, accidents and incidents occurring on or at the Site or the Port Facilities and (ii) all Emergencies, accidents and incidents involving employees of the Concessionaire or the Authority arising from work conducted by such employees pursuant to this Concession Agreement.

10.11 Other Reports and Information

Upon request by the Authority, the Concessionaire shall supply the Authority with all other reports, information, analyses and other documentation required to be provided or disclosed by the Authority to any Relevant Authority or pursuant to Applicable Law.

SECTION 11.

FURTHER UNDERTAKINGS

Unless the Authority otherwise agrees in writing, the Concessionaire shall, in addition to its other obligations hereunder:

11.1 not impose or suffer or permit the imposition of any Encumbrances (other than Permitted Concessionaire Encumbrances) on any Project Facilities, the Site or any other property related to the Project;

11.2 comply, and cause the Project to be in compliance in all material respects, with the Port Operations Manual, the Port Standards, Good Industry Practice and all Applicable Laws;

11.3 ensure that the commercial terms upon which the Concessionaire enters into any contracts, leases, or other arrangements with any Affiliate are no less favorable to the Concessionaire than those which could reasonably have been obtained by or from any bona fide third-party after arm's length negotiations;

11.4 comply with all of its obligations under, and cause the Project to be in compliance in all material respects with all requirements set forth in, each Project Agreement to which it is a party;

11.5 comply in all material respects with all Applicable Laws and, without limiting the generality of the foregoing, (a) obtain and thereafter comply with all obligations under and maintain in force for the Concession Period all Regulatory Approvals required under Applicable Laws; and (b) pay all Taxes imposed on or applicable to it, the Port Services, the Port Facilities, the Site, the Concession Rights or the Project in accordance with all Applicable Laws; and

11.6 notwithstanding and without limiting the generality of the provisions of Section 11.6 above: (a) comply and cause the Project to comply in all material respects at all times with all Environmental Laws; (b) apply for, obtain, maintain and comply in all material respects at all times with all Environmental Permits required under any Environmental Law to operate the Project in accordance with this Concession Agreement; (c) cause the Project to comply in all material respects at all times with all Environmental Permits required under any Environmental Law; and (d) comply and cause the Project

to comply in all material respects at all times with the obligations and requirements under this Concession Agreement relating to Environmental Laws and otherwise to the Environment set forth in Annex B (Port Services), and any other actions or steps reasonably requested by the Authority related to protection of the Environment.

SECTION 12.

INDEMNIFICATION

12.1 Third Party Liability

The Concessionaire shall indemnify the Authority Indemnified Parties against and hold the Authority Indemnified Parties harmless from, and shall otherwise be responsible to third parties for, any Loss of any kind whatsoever suffered or incurred by the Authority Indemnified Parties by reason of any injury or death to, or any damage or destruction of any tangible property of, any other Person to the extent such Loss is directly attributable to the actions or omissions of the Concessionaire or otherwise arises out of or as a consequence of the Port Services, including the failure to perform any Port Services in accordance with the Port Operations Manual, the Port Standards, Good Industry Practice or Applicable Laws except to the extent such Loss is caused by or is attributable to any gross negligence of, or willful misconduct by, the Authority.

12.2 Environmental

12.2.1 Notwithstanding and without limiting the provisions of Section 12.1.1 and subject to the Authority's obligations with respect to certain environmental matters that the Authority has assumed under Section 2.7 for which the Concessionaire shall have no liability:

(a) the Concessionaire shall assume, before the Authority, any and all Loss of any kind and/or liability resulting from or arising from the following (whether known or unknown): (i) any Environmental Matter arising directly or indirectly from or related to the operation of the Project; (ii) any failure to comply with any undertaking set forth in Section 11.7 of this Concession Agreement; and (iii) any investigation, clean-up or remediation of any Environmental Matter identified by the Environmental Consultant in the Final Environmental Study; and

(b) the Concessionaire also shall indemnify the Authority Indemnified Parties against and hold the Authority Indemnified Parties harmless from and shall otherwise be responsible to third parties or any Relevant Authority for any fine, Loss or damage of any kind whatsoever that may be suffered, imposed or incurred, directly or indirectly, by the Authority Indemnified Parties in relation to the Port Facilities or the immediate real property surrounding that serves the Port Facilities resulting from or arising from the following (whether known or unknown): (i) any Environmental Matter arising directly or indirectly from or related to the operation of the Project; (ii) any failure to comply with any undertaking set forth in Section 11.7 of this Concession Agreement; and (iii) any investigation, clean-up or remediation of any Environmental Matter identified by the Environmental Consultant in the Final Environmental Study.

12.2.2 The provisions of this Section 12.2 shall not restrict or limit in any way any rights or remedies of the Concessionaire or the Authority that may be available under any applicable Environmental Law with respect to Persons who are not Parties to this Concession Agreement.

12.3 Port Facilities

12.3.1 The Authority shall indemnify the Concessionaire against and hold the Concessionaire harmless from, and shall otherwise be responsible to third parties for, any Loss of any kind whatsoever suffered or incurred by the Concessionaire by reason of any claim or action by (a) any Person employed at or in connection with the Port Facilities before the Closing Date, any Person acting on behalf of or in place of any such employee, or any Person based upon any act or omission of any such employee; (b) any Person based upon any liability, obligation or commitment of the Authority, whether for services rendered or goods delivered by such Person or otherwise, in connection with the Port Facilities, in each case based on acts or omissions occurring prior to the Closing Date, except to the extent such Loss is caused by or attributable to any act or omission of the Concessionaire or any breach of this Concession Agreement by the Concessionaire; or (c) any of the Excluded Liabilities, except to the extent such Loss is caused by or attributable to any act or omission of the Concessionaire or any breach of this Concession Agreement by the Concessionaire.

12.3.2 The Concessionaire shall indemnify the Authority Indemnified Parties against and hold the Authority Indemnified Parties harmless from, and shall otherwise be responsible to third parties for, any Loss of any kind whatsoever suffered or incurred by the Authority Indemnified Parties by reason of any claim or action by (a) any Person (including any Subcontractor or Employee) employed at or in connection with the Port Facilities on or after the Closing Date, any Person acting on behalf of or in place of any such Subcontractor or Employee, or any Person based upon any act or omission of any such Subcontractor or Employee; (b) any Person based upon any liability, obligation or commitment of the Concessionaire, whether for services rendered or goods delivered by such Person or otherwise, in connection with the Port Facilities, in each case based on acts or omissions occurring on or after the Closing Date, except to the extent such Loss is caused by or attributable to any act or omission of the Authority or any breach of this Concession Agreement by the Authority; or (c) any of the Assumed Liabilities, except to the extent such Loss is caused by or attributable to any act or omission of the Authority or any breach of this Concession Agreement by the Authority.

12.4 Concessionaire Additional Indemnification Obligations.

The Concessionaire agrees that it shall protect, indemnify and hold harmless the Authority Indemnified Parties, from and against (and pay the full amount of) all Losses, and shall defend the Authority Indemnified Parties in any suit, including appeals, arising out of or relating to, directly or indirectly, (a) any act or omission of the Concessionaire or any of its directors, officers, officials, members, employees, agents, representatives or subcontractors in connection with its obligations or rights under this Concession Agreement, (b) the operation of the Port Facilities by or under the direction of the Concessionaire during the Concession Period in violation of Applicable Law or in breach of the terms and provisions of this Concession Agreement, (c) any Concessionaire Event of Default, (d) any inaccuracy or misrepresentation in or breach of any representation, warranty, covenant or agreement of the Concessionaire contained herein, or (e) the performance or non-performance of the Concessionaire's obligations under this Concession Agreement, except (in each instance) to the extent such Loss is caused by or attributable to any act or omission of the Authority or any breach of this Concession Agreement by the Authority.

12.5 References

12.5.1 All references in this Section 12 with respect to actions taken by the Concessionaire shall include the actions of the Concessionaire, any of its officers, directors, Employees, contractors, Subcontractors, consultants, agents and any other Person for whose actions or omissions the Concessionaire is vicariously liable under Applicable Laws.

12.5.2 All references in this Section 12 to "the Authority" shall include the Authority and any of its officers, directors, employees, contractors, subcontractors, consultants, agents and any Person for whose actions or omissions the Authority is vicariously liable under the laws of the State.

12.6 Procedures

12.6.1 If the Indemnified Party receives notice of any claim or the commencement of any suit, action, claim, proceeding or investigation brought by any Person other than the Indemnifying Party and with respect to which the Indemnifying Party is obligated to provide indemnification pursuant to this Concession Agreement, the Indemnified Party shall, within ten (10) Business Days thereafter, give the Indemnifying Party written notice (an "**Indemnification Notice**") thereof which sets forth in reasonable detail such information with respect to such suit, action, claim, proceeding or investigation as the Indemnified Party shall then have, but the failure to give an Indemnification Notice to the Indemnifying Party shall not relieve the Indemnifying Party of any liability that it may have to the Indemnified Party except to the extent that the Indemnifying Party shall have been materially prejudiced in its ability to defend the suit, action, claim, proceeding or investigation for which such indemnification is sought.

12.6.2 Upon receipt of an Indemnification Notice, the Indemnifying Party shall be entitled at its option and at its cost and expense to assume the defense of such suit, action, claim, proceeding or investigation with respect to which it is called upon to indemnify an Indemnified Party pursuant to this Section 12; *provided, however*, that the Indemnifying Party notifies the Indemnified Party of its intention to assume such defense within thirty (30) days after the Indemnified Party gives the Indemnifying Party the relevant Indemnification Notice. If the Indemnifying Party elects to assume the defense of such suit, action, claim, proceeding or investigation, as the case may be, the Indemnifying Party shall retain counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party shall have the right to employ its own counsel in any such suit, action, claim, proceeding or investigation, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party.

12.6.3 If the Indemnifying Party elects to assume the defense of any suit, action, claim, proceeding or investigation for which it is called upon to indemnify the Indemnified Party pursuant to this Section 12, the Indemnifying Party shall not settle or compromise such suit, action, claim, proceeding or investigation without the prior written consent of the Indemnified Party unless there is no finding or admission of any violation of law by the Indemnified Party, and the sole relief provided is monetary damages covered in full by the indemnity.

12.6.4 The Indemnifying Party agrees to keep the Indemnified Party reasonably informed of the events of any applicable suit, action, claim, proceeding or investigation. If requested by the Indemnifying Party, the Indemnified Party shall co-operate to the extent reasonably requested in the defense or prosecution of any suit, action, claim, proceeding or investigation for which such Indemnifying Party is called upon to indemnify the Indemnified Party pursuant to this Section 12.

12.6.5 The amount of any Loss indemnifiable pursuant to this Section 12 shall be reduced by (a) the value of any benefit (other than any insurance benefit or proceeds) realized, directly or indirectly, in any jurisdiction by the Indemnified Party as a result of such Loss; and (b) the amount of any insurance proceeds received by the Indemnified Party in respect of such Loss. If such proceeds are received by the Indemnified Party following an indemnifying payment in respect of the relevant Loss, the Indemnified Party shall pay to the Indemnifying Party an amount equal to the lesser of (i) the amount of such proceeds and (ii) the amount of the indemnifying payment made by the Indemnifying Party.

12.6.6 No amount shall be payable by any Indemnifying Party pursuant to this Section 12 in respect of consequential damages, including any loss of profit, revenue or opportunity or punitive damages; *provided, however*, that an Indemnifying Party may be liable under this Section 12 for all actual payments reasonably made by the other Party to third parties or reasonable out-of-pocket and documented costs or expenses actually suffered or incurred by such other Party in respect of third-party claims.

12.6.7 No Indemnified Party shall be entitled to be indemnified more than once under this Concession Agreement for the same Loss.

12.7 Setoff

In the event Concessionaire is not in compliance with any of the terms of this Concession Agreement or in the event any Authority Indemnified Party is entitled to indemnification pursuant to Section 12 of this Concession Agreement or in the event any Losses or any other amounts are owed but unpaid by Concessionaire pursuant to any provision of this Concession Agreement, the Authority shall have the immediate right, upon the giving of notice, to offset the amount of any such indemnity claim, Losses or other amounts against amounts then owing or to become owing by the Authority to Concessionaire pursuant to the terms and provisions of this Concession Agreement including any schedules or exhibits thereto. The rights of the Authority under this Section shall be in addition to, and not in limitation of, any other rights, which it may have.

12.8 Survival

This Section 12 shall survive the termination of this Concession Agreement and, notwithstanding any such termination, amounts owed under this Section 12 by one Party to the other Party shall be paid in accordance with this Concession Agreement.

SECTION 13.

INSURANCE

13.1 Policies

The Concessionaire shall, at its sole cost and expense, obtain or cause to be obtained, and maintain in force for the entirety of the Concession Period insurance policies issued by internationally recognized carriers duly authorized to issue insurance policies in the State and acceptable to the Authority, with such policy limits, sublimits and deductibles as shall be acceptable to the Authority, and shall otherwise comply with all Insurance Requirements.

13.2 Required Insurance

Without limiting the generality of Section 13.1, at all times during the Concession Period, the Concessionaire shall provide and maintain the following types of coverage:

13.2.1 The Concessionaire shall maintain an occurrence form marine general liability policy or policies at all times during the Concession Period. Such coverage shall be written on an ISO occurrence form, or equivalent, providing coverage for bodily injury, including death, personal injury, advertising liability, contractual liability and property damage in an amount of not less than $20,000,000 per occurrence, subject to a self-insured retention or deductible not to exceed $1,000,000 each occurrence

unless approved by the Authority. Each policy shall provide cross-liability coverage equivalent to the standard separation of insured's clause published by the ISO or a successor organization and coverage for certified acts of terrorism. The Concessionaire shall also provide coverage for sudden and accidental and gradual pollution upon land or water arising out of the Concessionaire's operations at the Port Facilities, under policy terms standard in the insurance industry; *provided* that such insurance is attainable at commercially reasonable rates. The Operator, if applicable, shall maintain the same amounts of marine general liability insurance for the benefit of the Concessionaire and the Authority.

13.2.2 The Concessionaire shall procure and maintain, in full force and effect during the Concession Period, "All Risk" property damage insurance (including the perils of flood and earthquake/earth movement) or equivalent, including certified acts of terrorism coverage, business interruption/time element insurance, covering all of the Port Facilities in an amount equal to 100% of the replacement value (unless otherwise agreed upon in writing by the Authority and the Concessionaire) and covering the Concessionaire and the Authority, as their interests appear, for loss of income arising out of this Concession Agreement due to business interruption/time element, including extra expense and expediting expense as a result of physical damage. The deductible under the policy may not exceed 5% of values at risk at the time of loss subject to minimum $1,000,000 in respect of earthquake, and not exceed $1,000,000 in respect of all others, unless approved by the Authority, and the Authority shall not be liable for damage under any deductible or self-insured retention.

13.2.3 During the construction of improvements required or permitted hereunder by the Concessionaire, the Concessionaire shall obtain and maintain for the benefit of the Parties, as their interests may appear, "All-Risk" builder's risk insurance equal to 100% of the value of the improvement (including coverage for certified acts of terrorism), subject to a commercially reasonable deductible not to exceed 5% of loss minimum $1,000,000 per occurrence in respect of windstorm, earthquake & flood, and not exceed $1,000,000 in respect of all others unless approved by the Authority, and the Authority shall not be liable for damage under any deductible or self-insured retention. Coverage shall also include: (i) form work in place; (ii) form lumber on site; (iii) temporary structures; (iv) equipment; and (v) supplies related to the work while at the site.

13.2.4 The Concessionaire shall maintain in force and effect, or cause to be maintained, as applicable, workers' compensation insurance for all of the Concessionaire's employees in accordance with all requirements of the State and any other Applicable Law. The Concessionaire shall also maintain employer's liability coverage in an amount not less than $5,000,000 per accident and $5,000,000 per employee for disease. The Concessionaire may meet these requirements through a combination of a self-insurance program meeting the requirements of the State and commercial workers' compensation and employers' liability insurance. The Concessionaire shall require that all other users of the Port Facilities maintain the same or similar insurance as required by Applicable Law.

13.2.5 If the Concessionaire operates Vessels in connection with the performance of the Port Services at the Port Facilities (including coverage for certified acts of terrorism), the Concessionaire shall maintain Protection & Indemnity Insurance in an amount not less than $20,000,000.

13.2.6 The Concessionaire shall maintain an automobile liability policy or policies insuring against liability for bodily injury, death, or damage to property, including loss of use thereof, and occurring in any way related to the use, loading or unloading of any of the Concessionaire's automobiles (including owned, hired and non-owned vehicles) on and around the Port Facilities (including coverage for certified acts of terrorism). Coverage shall be in an amount of not less than $5,000,000 each accident subject to a self-insured retention or deductible not to exceed $1,000,000 unless approved by the Authority.

13.2.7 The Concessionaire shall be responsible for ensuring that the Concessionaire's Subcontractors and representatives maintain insurance with coverage amounts generally acceptable in the industry that are commercially reasonable in light of the work provided by the Subcontractors and representatives. In no event shall the Concessionaire's obligations to the Authority be diminished by failure of a Subcontractor or representative to maintain adequate insurance coverage.

13.3 The Authority As Beneficiary

Subject to the claims of any Security Holder, the Authority shall be named as an additional insured in all policies issued pursuant to this Section 13, and shall, in the event of any termination of this Concession Agreement, have such rights as may be set forth in the Insurance Requirements.

13.4 Other Requirements

The required insurance amounts set forth in this Section 13 shall not in any way limit the amount or scope of liability of the Concessionaire under this Concession Agreement. The amounts listed indicate only the minimum amounts of insurance coverage the Authority is willing to accept to help insure full performance of all terms and conditions of this Concession Agreement. In addition, all insurance required by the Concessionaire under this Concession Agreement shall meet the following minimum requirements:

13.4.1 On or before the Closing Date, and thereafter during the Concession Period, the Concessionaire shall provide the Authority with current certificates of insurance, including additional insured endorsements and loss payee provisions executed by a duly authorized representative of each insurer, evidencing the existence of all insurance policies required under this Section 13. The Concessionaire shall have the right to satisfy the insurance requirements of this Concession Agreement by means of a blanket policy; *provided* that such blanket policy provides the required levels of protections set forth in this Concession Agreement. The Authority shall receive at least 30 days' notice prior to cancellation, non-renewal or material change in any policy. Insurance must be maintained without any lapse in coverage during the Concession Period. The Authority shall, upon request, be given, at the Concessionaire's own expense, certified copies of the Concessionaire's policies of insurance. Failure of the Authority to demand such certificates or other evidence of full compliance with these insurance requirements, or failure of the Authority to identify any deficiency or noncompliance with coverage requirements, shall not be construed as a waiver of the Concessionaire's obligation to maintain the insurance required by this Concession Agreement.

13.4.2 Each insurance policy required in this Section 13 shall provide that the coverage is primary, and will not seek any contribution from any insurance or self-insurance carried by the Authority.

13.4.3 All policies of insurance must be written by companies having an A.M. Best rating of "A-" or better, or equivalent. The Authority may, upon 30 days' notice to the Concessionaire, require the Concessionaire to change any carrier whose rating drops below an "A-" rating.

13.5 No Liability to the Authority for Failure to Insure

The Authority shall not bear any risk or responsibility for the failure of the Concessionaire to obtain or maintain any or all of the foregoing policies or to otherwise comply with all Insurance Requirements and, except as specifically provided herein, shall not be liable to the Concessionaire for uninsured losses.

13.6 Waiver of Subrogation

The Concessionaire and the Authority waive any right of action that they or their insurance carriers might have against each other (including their respective representatives) or against other tenants of the Port Facilities for any Loss to the extent that such Loss is covered by any property insurance policy or policies maintained, or required to be maintained pursuant to this Concession Agreement, and to the extent that such proceeds (which proceeds are free and clear of any interest of third parties) are received by the Party claiming the Loss. If any of the Concessionaire's applicable insurance policies do not allow the insured to waive the insurer's rights of subrogation prior to a Loss, the Concessionaire shall cause it to be endorsed with a waiver of subrogation that allows the waivers of subrogation required by this Section 13.

13.7 Review of Policies

13.7.1 The amounts of coverage required under this Section 13 shall be reviewed by the Authority, and if necessary, adjusted each succeeding anniversary of the Closing Date in accordance with then-prevailing market conditions.

13.7.2 At the Concessionaire's request, the Authority shall review and determine, in its discretion, whether any required insurance under this Section 13 should be amended or waived because it is not available on commercially reasonable terms.

SECTION 14.

FORCE MAJEURE

14.1 Force Majeure

"**Force Majeure**" means (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies; (ii) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war; (iii) riot, commotion, disorder, strike or lockout by Persons other than the Concessionaire or the Operator, Affiliates of the Concessionaire or the Operator or employees or contractors of the Concessionaire or the Operator; (iv) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the use of such munitions, explosives, radiation or radio-activity by the Concessionaire, its Affiliates, Employees or Subcontractors; (v) natural catastrophes such as earthquake and volcanic activity, in each case only to the extent such event or circumstance is an exceptional event or circumstance; and (vi) extreme weather (including hurricanes) for which an evacuation is ordered by a Relevant Authority:

(a) which is beyond the control of the Party seeking to invoke Force Majeure;

(b) which such Party could not reasonably have avoided, prevented or overcome through the exercise of due diligence;

(c) which is not substantially attributable to such Party; and

(d) which has the effect of preventing a Party from performing its obligations under this Concession Agreement as a consequence of: (1) unavoidable and material physical damage or destruction

to the Port Facilities; or (2) interruption to the regular operation of all or any material portion of the Port Facilities.

Without limiting the generality of the foregoing, for purposes of this Concession Agreement, the term "**Force Majeure**" *excludes*: (A) changes in Applicable Law and acts by Relevant Authorities, in each case other than a Discriminatory Change in Law, (B) changes in financial markets or market conditions generally, (C) events or circumstances within the conditions required to be designed against or provided for in accordance with this Concession Agreement, (D) the occurrence of any shortages of manpower or supplies; or (E) any delay, default or failure (direct or indirect) in obtaining supplies, or of any Subcontractor or worker performing any work or any other delay, default or failure (financial or otherwise) of a Subcontractor, vendor or supplier.

14.2 Notice of Force Majeure

If any Party hereto is affected by an event of Force Majeure as defined in Section 14.1, it shall give notice within five (5) Business Days of the occurrence thereof to the other Party. The affected Party shall likewise immediately notify the other Party within five (5) Business Days when the event of Force Majeure has ceased.

14.3 Excuse of Performance

14.3.1 Should an event of Force Majeure prevent the total or partial performance of any of the obligations of either Party resulting from this Concession Agreement, then the Party claiming the event of Force Majeure shall be excused from whatever performance is prevented thereby to the extent so affected and the other Party shall not be entitled to terminate this Concession Agreement except as otherwise provided herein, *provided* that, except as provided herein, no event of Force Majeure shall be construed to relieve a Party of its obligation to pay sums of money due or that may become due under this Concession Agreement (including the obligations of the Concessionaire to make timely payment of the Concession Fees due in accordance with Section 2.4). The Party claiming the event of Force Majeure shall use commercially reasonable efforts to continue to perform its obligations hereunder.

14.3.2 Neither Party shall claim damages, penalties, interest or any other compensation from any other Party due to the occurrence of an event of Force Majeure.

14.3.3 The foregoing provisions of this Section 14 shall not, however, excuse or release the Party claiming Force Majeure from obligations due or performable, or compliance required, under this Concession Agreement prior to the above-mentioned failures or delays in performance due to the occurrence of Force Majeure or obligations not affected by the event of Force Majeure. Unless this Concession Agreement shall have been terminated, a Party excused from performance by the occurrence of Force Majeure shall continue its performance under this Concession Agreement when the effects of the event of Force Majeure are removed.

14.4 Extension of Concession Period upon Force Majeure

If an event of Force Majeure (a) is not covered by business interruption insurance and (b) prevents the Concessionaire from providing Port Services for a period of more than 60 continuous days, the Concession Period shall be extended for a period of time equal to the length of such event of Force Majeure lasts in excess of 60 days.

14.5 Extended Force Majeure; Termination

14.5.1 This Concession Agreement may be terminated by mutual consent of the Authority and the Concessionaire, at any time following the occurrence of (a) Concessionaire's delivery of written notice to the Authority as required by Section 14.2 claiming an Event of Force Majeure, and (b) the passage of a period of sixty (60) consecutive days, or more, from the date of such notice during which the Event of Force Majeure has continued uninterrupted.

14.5.2 Upon the occurrence and continuation of an Event of Force Majeure described in Section 14.5.1, the Concessionaire will be permitted to abate the Annual Fixed Fee and the Minimum Annual Guarantee by fifty percent (50%) during the pendency of such Event of Force Majeure.

14.5.3 Upon the occurrence and continuation of an Event of Force Majeure as described in Section 14.5.1 that continues for one hundred twenty (120) consecutive days, the Concessionaire will have the right, upon a 120-day notice to the Authority, to terminate this Agreement.

SECTION 15.

EVENTS OF DEFAULT; REMEDIES

15.1 Default by the Concessionaire

The occurrence of any of the following events shall be deemed an event of default by the Concessionaire (each, a "**Concessionaire Event of Default**"):

15.1.1 the Concessionaire (a) abandons all or any significant portion of or (b) evidences an intent to cease or significantly diminish operations at the Port Facilities, the Site or the Project period of more than 30 continuous days;

15.1.2 the Concessionaire suspends all or any significant portion of the Port Services for a period of three (3) consecutive months and fails to recommence the performance of such Port Services within three (3) months after the Authority notifies the Concessionaire to recommence such Port Services;

15.1.3 the Concessionaire shall have become unable, admits in writing its inability, or fails generally, to pay its debts as they become due or otherwise becomes insolvent;

15.1.4 the Concessionaire files a petition for bankruptcy, insolvency, or voluntarily commences any proceeding or files any petition seeking liquidation, winding up, reorganization, moratorium, arrangement, composition or other similar relief under Applicable Law;

15.1.5 an involuntary proceeding is commenced or an involuntary petition is filed seeking an adjudication of the Concessionaire as bankrupt or insolvent, or seeking liquidation, winding up, reorganization, moratorium, arrangement, composition or other similar relief under Applicable Law in respect of the Concessionaire or any substantial part of its property;

15.1.6 the Concessionaire breaches its obligations under Section 2.4; *provided, however*, that if the Authority draws on the Letter of Credit or the Escrow Account under Section 2.4.4, such action shall be deemed to be a sufficient cure of any such breach under Section 2.4;

15.1.7 any representation or warranty of the Concessionaire or any Equity Participant contained in this Concession Agreement or any other document delivered by the Concessionaire in connection with this Concession Agreement or the selection process proves to have been false, inaccurate or misleading in any material respect when made;

15.1.8 the Concessionaire fails to obtain or maintain any insurance which it is required to obtain or maintain under Section 13;

15.1.9 the Concessionaire enters into an agreement to, or assigns, transfers, conveys, leases, encumbers or otherwise disposes of all or any portion of its rights or obligations under this Concession Agreement other than in accordance with the express terms of Section 17;

15.1.10 the Concessionaire shall have repudiated this Concession Agreement or any other Project Agreement or otherwise demonstrated its intention not to be bound by the terms thereof;

15.1.11 the Concessionaire fails to complete the Capital Improvements in accordance with Section 9.4;

15.1.12 the Concessionaire commits a material breach or default in respect of the performance of any of its other obligations under any Project Agreement to which it is a party, or any party to a Project Agreement terminates or is entitled for any reason (other than pursuant to the Authority's right to terminate by reason of a default thereunder by the Authority) to terminate such Project Agreement;

15.1.13 the Operator commits a material breach or default in respect of the performance of any of its obligations under the Port Operations Manual, the Port Standards, all Applicable Laws, Good Industry Practice or any other Project Agreement to which the Operator is a party or the agreement between the Operator and the Concessionaire is repudiated or terminated by the Operator for any reason or ceases to be the valid and binding obligation of the parties thereto; *provided, however*, that no Concessionaire Event of Default shall exist as a result of the termination of the agreement with the Operator if the Concessionaire has appointed an interim Operator in accordance with Section 8.2.5; or

15.1.14 the Concessionaire commits a material breach or default in respect of the performance of any of its obligations under this Concession Agreement (other than those mentioned elsewhere in this Section 15.1), which breach has continued unremedied for sixty (60) days or more.

15.2 Remedies of the Authority upon Concessionaire Event of Default

Upon the occurrence and during the continuance of a Concessionaire Event of Default, the Authority may, by notice to the Concessionaire with a copy to the Security Holder in accordance with the terms hereof, declare the Concessionaire to be in default and may, subject to the rights of the Security Holder pursuant to Sections 19.3 and 19.4, do any or all of the following as the Authority, in its discretion, shall determine:

15.2.1 the Authority may give written notice to the Concessionaire requiring the Concessionaire to use its best efforts to remedy the Concessionaire Event of Default within a period of time prescribed by the Authority, which shall not exceed ten (10) days in the case of an Emergency, and

which shall not exceed three (3) months in all other cases, from the receipt of such notice and which shall take into account the nature of the breach and if such Concessionaire Event of Default is not remedied by the Concessionaire by the expiration of the specified period, or the Concessionaire fails to pursue reasonable steps to remedy such Concessionaire Event of Default by the expiration of the specified period, the Authority shall have the right to terminate this Concession Agreement by notice in writing to the Concessionaire;

15.2.2 if the Concessionaire Event of Default is by reason of the failure to pay any monies to a third party, the Authority may (without obligation to do so) make payment on behalf of the Concessionaire of such monies, and any amount so paid by the Authority shall be payable by the Concessionaire to the Authority within fifteen (15) days after written demand therefor;

15.2.3 the Authority may cure the Concessionaire Event of Default (but this shall not obligate the Authority to cure or attempt to cure a Concessionaire Event of Default or, after having commenced to cure or attempted to cure a Concessionaire Event of Default, to continue to do so), and all costs and expenses reasonably incurred by the Authority in curing or attempting to cure the Concessionaire Event of Default shall be payable by the Concessionaire to the Authority within fifteen (15) days after written demand therefor; *provided, however*, that (a) the Authority shall not incur any liability to the Concessionaire for any act or omission of the Authority or any other Person in the course of remedying or attempting to remedy any Concessionaire Event of Default (other than as a result of negligence or willful misconduct) and (b) the Authority's cure of any Concessionaire Event of Default shall not affect the Authority's rights against the Concessionaire by reason of the Concessionaire Event of Default;

15.2.4 the Authority may seek specific performance, injunction or other equitable remedies, it being acknowledged that damages are an inadequate remedy for the specific Concessionaire Event of Default;

15.2.5 the Authority may seek to recover its Losses arising from such Concessionaire Event of Default (including the right to recover immediately all Concession Fees owed but not paid, calculated through the End Date) and, in connection therewith, immediately draw down on the Letter of Credit or withdraw from the Escrow Account contemplated in Section 2.4.3 and exercise any other recourse available to any Person who is owed damages or a debt;

15.2.6 subject to the rights of the Security Holder under the Security Interest and the terms of this Concession Agreement, the Authority may close any and all portions of the Port Facilities; and

15.2.7 the Authority may exercise any of its other rights and remedies provided for hereunder or at law or equity.

15.3 Default by the Authority

The occurrence of any of the following events shall be deemed an event of default by the Authority (each, an "**Authority Event of Default**"):

15.3.1 the Authority commits a material breach or default in respect of the performance of any of its obligations under this Concession Agreement and such breach continues uncured for a continuous period of ninety (90) days (it being understood that the Authority being dissolved or ceasing to have the power or authority to perform its obligations under this Concession Agreement shall not be

considered a material breach or default of the Authority's obligations under this Concession Agreement); and

15.3.2 the occurrence of any compulsory acquisition or expropriation by the Authority or any other Relevant Authority of any part of the Site or Port Facilities, which results in the material impairment of the Concession Rights significantly impeding the ability of the Concessionaire to perform the Terminal Services or significantly reducing the economic benefits to be derived therefrom.

15.4 Remedies of the Concessionaire upon Authority Event of Default

15.4.1 Upon the occurrence and during the continuance of an Authority Event of Default, the Concessionaire may by notice to the Authority declare the Authority to be in default and may, subject to the provisions of Section 18, do any or all of the following as the Concessionaire, in its discretion, shall determine:

(a) the Concessionaire may give written notice to the Authority requiring the Authority to use reasonable efforts to remedy the Authority Event of Default within a period of time prescribed by the Concessionaire, which period of time shall be not less than three (3) months from the receipt of such notice and which shall take into account the nature of the breach and if such Authority Event of Default is not remedied before the expiration of the specified period, the Concessionaire may, upon the expiration of the specified period, terminate this Concession Agreement by notice in writing to the Authority;

(b) upon a termination of this Concession Agreement by the Authority pursuant to Section 15.4.1(a), the Concessionaire is entitled to be paid the following amount by the Authority: (i) the Concessionaire's actual and documented costs expended for the Capital Improvement Projects, adjusted based on changes in US CPI for the period between the Closing Date and the date of such termination under Section 15.4.1(a) and pro-rated based on the number of days that otherwise would have remained in the Concession Period as of such termination as a percentage of the total number of days in a 43-year term; *plus* (ii) without duplication, the reasonable out-of-pocket and documented costs and expenses incurred by the Concessionaire as a direct result of such termination pursuant to Section 15.4.1(a); *less* (iii) any insurance proceeds received and retained by the Concessionaire with respect to all or any portion of the Site and the Port Facilities as a result of the occurrence of the Authority Event of Default; *provided* that any Movable Property and Fixtures and Fittings allocable to the payment in respect of the Capital Improvement Projects described in clause (i)(B) above shall be transferred by the Concessionaire to the Authority upon such termination date;

(c) to the extent that performance by the Authority of the relevant obligation is reasonably practicable or legally available, the Concessionaire may seek specific performance, injunction or other equitable remedies; and

(d) the Concessionaire may exercise any of its other rights and remedies provided for hereunder or at law or equity.

15.4.2 No notice given by the Concessionaire to the Authority in which the Concessionaire states that it elects to exercise its right of termination of this Concession Agreement shall be valid for any purpose unless, if any Security Interest remains outstanding and if and to the extent required by the terms of any Security Interest, the Concessionaire has first obtained and delivered to the Authority the written consent of the Security Holder to such notice.

15.5 Limitation on Liability

Notwithstanding any other provision of this Concession Agreement, the Parties acknowledge that it is in their mutual interests to limit their liability to each other, and expressly bargain for and agree that neither Party shall be liable to the other Party under this Concession Agreement for punitive, remote, indirect, special, consequential, expectation, ongoing, future or speculative damages, lost profits or any contingent liability (it being understood that such contingent liability, if it becomes actual, is subject to the exclusions under this Section 15.5).

15.6 Effect of Termination

On the expiration or termination of this Concession Agreement and/or the Concession Period (subject to Section 19) for whatever reason:

15.6.1 this Concession Agreement (except for those provisions that by their terms survive the termination of this Concession Agreement) shall cease to have effect, subject to all rights and obligations of the Parties existing prior to such termination (including the obligation of the Concessionaire to pay all Concession Fees and other accrued and unpaid amounts payable to the Authority hereunder prior to the date of such expiration or termination);

15.6.2 the Concession Rights shall terminate, subject to Section 15.6.1;

15.6.3 any reimbursement or compensation payable by the Authority to the Concessionaire, or by the Concessionaire to the Authority, pursuant to this Section 15, if any, shall be deemed a debt due and payable in Dollars, and shall be paid by the Party liable, together with interest thereon accruing at the rate specified in Section 22.6 from the date this Concession Agreement terminates until the date of payment, into one or more bank accounts designated by the other Party for such purpose, on or before the date which shall be the later of: (a) the date which shall be ninety (90) days after the date on which this Concession Agreement terminates, and (b) if either Party shall dispute such termination by the other Party, the date which shall be ninety (90) days after a final determination is made in accordance with Section 18 hereof;

15.6.4 the Authority shall retain the Environmental Consultant who shall prepare a Final Environmental Study of the Project. With respect to the Final Environmental Study, the Authority and Concessionaire agree as follows:

(a) the Authority shall prepare the scope of work for the Final Environmental Study that complies with the requirements of Applicable Law and is reasonable in scope;

(b) the Environmental Consultant shall investigate and assess (1) any Environmental Matter arising directly or indirectly from or related to the operation of the Project by the Concessionaire and (2) all costs and expenses required to investigate, clean-up, remediate, address or rectify any Environmental Matter arising directly or indirectly from or related to the Project or the operation of the Project by the Concessionaire. The Final Environmental Study shall consist of or include a discussion of the following: (A) a Phase I environmental assessment conducted in accordance with standard E 1527-00 of the American Society for Testing and Materials (ASTM), as revised, amended or updated, or its equivalent at the time of the expiration or termination of this Concession Agreement; (B) any soil, water and ground water sampling or intrusive work necessary to determine, in the opinion of the Authority, the existence or extent of any Environmental Matter or the costs and expenses necessary to address any Environmental Matter; and (C) any other assessment, investigation or activities reasonably requested by the Authority;

(c) the Final Environmental Study shall be consistent with the scope of work prepared by the Authority and shall be to the reasonable satisfaction of the Authority; and

(d) any amounts payable to the Concessionaire by the Authority at the expiration or termination of this Concession Agreement shall be offset by the costs and expenses, as estimated and certified by the Environmental Consultant, to investigate, clean-up, remediate, address or rectify any Environmental Matter and to pay for all costs and expenses incurred by the Environmental Consultant in connection with preparation of the Final Environmental Study;

15.6.5 the Concessionaire shall surrender to the Authority possession of the Site and the Port Facilities, and the Authority shall have the right to (a) enter and take immediate possession and operational control of the Site and all Port Facilities, (b) request that all Intangible Property be immediately delivered to it, except to the extent that any such Intangible Property involves proprietary information or software subject to an exclusive license agreement, and (c) select and substitute a new concessionaire for the Concessionaire. Notwithstanding the foregoing, in the event that the Concessionaire shall have abandoned the Site or the Port Facilities, the Authority shall have the immediate right to take the actions in subsections (a), (b) and (c) above. The exercise of such right by the Authority shall not relieve the Concessionaire of any of its obligations as specified in this Section 15;

15.6.6 the Authority shall have the right to purchase from the Concessionaire all or any portion of the Movable Property, Fixtures and Fittings and any Cranes for which the Authority approved the purchase of such Cranes by the Concessionaire pursuant to Section 2.2.1(e) and all or any portion of the tangible and intangible personal property (including inventories) located on the Site or used in connection with the Port Facilities as of such expiration or termination date in accordance with Section 2.2.1(d); *provided, however*, that this Section 15.6.6 shall not apply to Movable Property and Fixtures and Fittings transferred to the Authority pursuant to Section 14.5.2 or Section 15.4.1(b) and *provided further* that the Authority's option to purchase Cranes under this Section 15.6.6 shall not apply in the circumstances described in Section 15.6.7; and

15.6.7 this Section 15.6 shall survive the expiration or earlier termination of this Concession Agreement.

15.7 Additional Damages on Termination

15.7.1 Upon any termination of this Concession Agreement or the expiration of the Concession Period, all in accordance with the terms of this Concession Agreement, the Concessionaire shall promptly and in any event within thirty (30) days after the date of termination vacate the Site (it being understood that such thirty (30) day period may be reasonably extended); *provided* that the activities of the Concessionaire in vacating the Site and the Port Facilities shall, in no event, interfere with the subsequent operation of the Site during such initial thirty (30) day period or any extension thereof. If the Concessionaire fails to vacate the Site as aforesaid, the Concessionaire shall pay to the Authority any and all damages as may be determined in accordance with Section 18.

15.7.2 For the purposes of Section 15.7.1, the date of any termination of this Concession Agreement shall be the date of termination notified by one Party to the other, or otherwise agreed by the Parties, or, if any such terminations shall be disputed and submitted to dispute resolution in accordance with Section 18, the date on which the a final and binding decision is rendered in respect of the matter pursuant to Section 18.

15.7.3 This Section 15.7 shall survive the expiration or earlier termination of this Concession Agreement.

SECTION 16.

HANDBACK REQUIREMENTS

16.1 Handback Requirements

Upon the date of termination of this Concession Agreement in accordance with the provisions of Section 3 or Section 15, each element of the Port Facilities shall comply with the Handback Requirements.

16.2 Handback Inspection

16.2.1 Not later than three hundred sixty-five (365) days prior to the Termination Date (or, in the case of a termination pursuant to Section 15, as soon as practicable after a notice of termination is delivered by either Party), the Concessionaire and the Authority shall conduct a joint inspection of the Port Facilities (the "**Handback Inspection**"). The inspection shall comply with any requirements of the Handback Requirements and shall be at the sole cost and expense of the Concessionaire.

16.2.2 Within forty-five (45) days after the completion of the Handback Inspection, the Authority shall either:

(a) issue to the Concessionaire a certificate (the "**Handback Certificate**") stating that it is satisfied the Port Facilities will meet the Handback Requirements on the Termination Date; or

(b) notify the Concessionaire in writing of its decision not to issue the Handback Certificate and state the reason for its decision.

16.2.3 The Authority may refuse to issue the Handback Certificate if the Port Facilities for any reason do not comply with the Handback Requirements in all material respects. Any notice given by the Authority in accordance with Section 16.2.2(b) above shall set out each respect in which the Port Facilities do not comply with the Handback Requirements and shall state the Authority's estimate of the cost of procuring that the Port Facilities comply in all material respects with the Handback Requirements.

16.2.4 Within thirty (30) days after receipt of a notice given in accordance with Section 16.2.2(b) above, the Concessionaire may, by notice to the Authority, object to any matter set out in the notice issued by the Authority. The notice from the Concessionaire shall give details of the grounds for such objection and shall give the Concessionaire's proposals in respect of such matters.

16.2.5 If no agreement is reached between the Concessionaire and the Authority as to any matter referred to in the notice given by the Concessionaire in accordance with Section 16.2.2(b) above within sixty (60) days, then either Party may refer the matter to dispute resolution in accordance with Section 18 for a determination of:

(a) whether the Port Facilities comply in all material respects with the Handback Requirements; and/or

(b) the estimated cost of procuring that the Port Facilities shall comply in all material respects with the Handback Requirements on the Termination Date.

16.2.6 If it is agreed or determined by dispute resolution under Section 18 that the Port Facilities do not comply in all material respects with the Handback Requirements, then without prejudice to any other right or remedy of the Authority, the Concessionaire shall pay to the Authority an amount equal to the estimated cost of procuring that the Port Facilities comply in all respects with the Handback Requirements, as agreed or determined in accordance with Section 16.2.5(b) above, together with an administrative fee equal to 5% of such costs. Such payment shall be made not later than fourteen (14) days after such estimated cost has been agreed or determined in accordance with this Section 16.2.

16.3 Transition Personnel and Training

In complying with the Handback Requirements, the Concessionaire shall, if requested by the Authority, provide to the Authority a complete list of all its Service Providers and of all Employees of the Concessionaire who have been engaged full time on the Project. The Concessionaire shall co-operate with the Authority to arrange for as orderly as possible a transfer of the Port Facilities and for the continuous provision of Port Services with a minimum of disruption to Users, including providing the Authority with any required transition personnel and training (such transition personnel and training to be provided at the reasonable expense of the Authority) for such period of time as may reasonably be requested by the Authority.

SECTION 17.

ASSIGNMENTS AND TRANSFERS

This Concession Agreement shall be binding upon, and inure to the benefit of, the Concessionaire, the Authority and their permitted successors and assigns.

17.1 Assignment by the Concessionaire

Without the prior written consent of the Authority, except with respect to a granting of a Security Interest in accordance with Section 19, the Concessionaire may not assign or transfer (a) this Concession Agreement or any other agreement executed in connection with the Project to which it is a party, (b) any of its rights or obligations thereunder, or (c) any of its assets; *provided* that, while any Security Interest is outstanding, the Authority shall not agree to any transfer of any or all of the Concession Rights to or in favor of any Person without the previous written confirmation from the Security Holder that such transfer is permitted under all outstanding Security Interests. For purposes of this Section 17.1, a Change in Control of the Concessionaire shall be deemed a transfer by the Concessionaire of this Concession Agreement; *provided, however*, that changes in the relative ownership percentages of the Equity Participants of the Concessionaire between the Effective Date and the Closing Date shall not be a Change of Control so long as all such Equity Participants as of the Closing Date were Equity Participants as of the Effective Date. From the Closing Date until the ninth (9th) anniversary of the Closing Date, such consent shall be in the discretion of the Authority. From and after the ninth (9th) anniversary of the Closing Date, any such consent shall not be unreasonably withheld, conditioned or delayed by the Authority. The Authority shall respond to any such request for a consent to an assignment under this Section 17.1 within sixty (60) days of the receipt of such request by the Authority.

17.2 Assignment by the Authority

Without the prior written consent of the Concessionaire, the Authority may not assign or transfer this Concession Agreement or any of its rights or obligations hereunder, except that the Authority shall be permitted to assign or transfer all or a part of its rights and obligations hereunder (without the requirement of the prior written consent of the Concessionaire) to any successor entity or government body which succeeds to its functions, which such successor entity shall be bound by the terms and conditions of this Concession Agreement. The Authority shall use its commercially reasonable efforts to give notice of any such assignment not later than 30 days prior to such assignment.

SECTION 18.

RESOLUTION OF DISPUTES

18.1 Scope

Any dispute arising out of, relating to, or in connection with this Concession Agreement, including any question as to whether such dispute is subject to arbitration, shall be resolved as set forth in this Section 18.

18.2 Informal Dispute Resolution Procedures

The Parties shall attempt in good faith to resolve such dispute within fifteen (15) days following receipt by the other party of notice of such dispute. If the Parties are unable to resolve the dispute within such fifteen-day period, and upon notice by either Party to the other, the dispute shall be referred to the Designated Senior Person of each Party. The Designated Senior Persons shall negotiate in good faith to resolve the dispute, conferring as often as they deem reasonably necessary. Statements made by representatives of the Parties during the dispute resolution procedures set forth in this Section 18.2 and documents specifically prepared for such dispute resolution procedures shall be considered part of settlement negotiations and shall not be admissible as evidence in any arbitration or other litigation proceeding between the Parties without the mutual consent of the Parties.

18.3 Arbitration

If the procedures described in Section 18.2 do not result in resolution of the dispute within thirty (30) days, as may be extended by mutually agreeable following a reference to the Designated Senior Persons of the Parties, the dispute shall be exclusively and finally settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("**AAA**") then in effect (the "**AAA Rules**"). Either Party may initiate the arbitration, as provided in the AAA Rules. The place of arbitration shall be Hartford, Connecticut unless the Parties agree otherwise. The arbitral panel shall determine the rights and obligations of the Parties in accordance with the substantive laws of the State and without regard to conflicts of laws principles thereof. Except as agreed by the Parties, the arbitral panel shall have no power to alter or modify any terms or provisions of this Concession Agreement, or to render any award that, by its terms or effects, would alter or modify any term or provision of this Concession Agreement. The arbitral panel shall be composed of three arbitrators, one to be selected by the Authority, one to be selected by the Concessionaire and the third (who shall act as chairman of the panel) to be selected by the two previously-selected arbitrators. If the two previously-selected arbitrators cannot agree on the selection of the third arbitrator, the third arbitrator shall be selected in accordance with the AAA

Rules. Once the arbitral panel has been composed, the arbitrators shall act as neutrals and not as party arbitrators, and no Party shall engage in any *ex parte* communication with any member of the arbitral panel. Each Party shall bear its own attorney fees, expenses, and costs. The award shall include interest at the interest rate determined in accordance with Section 22.6 from the date of any breach or violation of this Concession Agreement or the incurring of any obligation as determined in the arbitral award until paid in full. The award shall be in writing and state the reasons upon which it is based. The award shall be final and binding on the Parties. Judgment on the award may be entered by any court with competent jurisdiction. The Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*, shall govern any arbitration conducted pursuant to this Section 18.3.

18.4 Provisional Remedies

No Party shall be precluded from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy to protect its rights that may be necessary and that is not otherwise available under this Concession Agreement, including temporary and preliminary injunctive relief and restraining orders and the appointment of a receiver or receiver and manager in connection with the collection and retention of the User Fees.

18.5 Tolling

If a Party receiving a notice of default under this Concession Agreement contests, disputes or challenges the propriety of such notice by making application to the dispute resolution procedure in this Section 18, any cure period that applies to such default shall be tolled for the time period between such application and the issuance of a final award or determination.

SECTION 19.

LENDERS' RIGHTS AND REMEDIES

19.1 Security Interests

The Concessionaire shall have the right, at its sole cost and expense, to grant one or more (subject to Section 19.7) Security Interests, if at the time any such Security Interest is executed and delivered to the Security Holder, no Concessionaire Event of Default exists unless any such Concessionaire Event of Default will be cured pursuant to Section 19.3 in connection with entering into such Security Interest, and upon and subject to the following terms and conditions:

19.1.1 a Security Interest may cover property of, and secure debt issued or guaranteed by the Concessionaire and any Affiliate of the Concessionaire including that it may cover Equity Securities of the Concessionaire;

19.1.2 no Person other than an Institutional Lender shall be entitled to the benefits and protections accorded to a Security Holder in this Concession Agreement; *provided, however*, that lessors and lenders to the Concessionaire, including any financial insurers, shall be entitled to the benefits and protections accorded to a Security Holder in this Concession Agreement so long as any Security Interest securing the relevant debt or financial insurance provided by such Persons is held by an Institutional Lender acting as collateral agent or trustee with the customary powers given to collateral agents or trustees in similar commercial financing transactions;

19.1.3 no Security Interest or other instrument purporting to mortgage, pledge, encumber, or create a lien, charge or security interest on or against any or all of the Concession Rights shall extend to or affect the interest of the Authority or the State in the Site and the Port Facilities (other than a Permitted Concessionaire Encumbrance);

19.1.4 except (a) for violations by the Authority of the express obligations to the Security Holder set forth in this Section 19 and (b) for any remedies of the Security Holder provided by Applicable Law with respect to the Concessionaire or the Authority, including (i) the exercise by the Security Holder of the Security Holder's rights hereunder as to the Concessionaire and (ii) the right of the Security Holder to receive amounts otherwise due to the Concessionaire under this Concession Agreement as a result of the exercise by the Security Holder of the Security Holder's rights under a perfected Security Interest, the Security Holder shall not be entitled to seek any damages or other amounts against the Authority with respect to the payment of the principal sum secured by any Security Interest, or any interest accrued thereon or any other sum secured thereby or accruing thereunder;

19.1.5 the Authority shall have no obligation to any Security Holder in the enforcement of the Authority's rights and remedies herein and by Applicable Law provided, except as expressly set forth in this Concession Agreement and unless the Concessionaire or such Security Holder has provided the Authority with notice of its Security Interest in accordance with the Security Holder Notice Requirements;

19.1.6 each Security Interest shall provide that if an event of default under the Security Interest has occurred and is continuing and the Security Holder gives notice of such event of default to the Concessionaire, then the Security Holder shall give notice of such default to the Authority;

19.1.7 subject to the terms of this Concession Agreement that specifically refer to the rights of the Security Holder, all rights acquired by a Security Holder under any Security Interest shall be subject to all of the provisions of this Concession Agreement;

19.1.8 while any Security Interest is outstanding, the Authority shall not (a) agree to any amendment to or modification of this Concession Agreement that could reasonably be expected to have a material adverse effect on the rights or interests of the Security Holder or (b) agree to a voluntary surrender or termination of this Concession Agreement by the Concessionaire without the consent of the Security Holder;

19.1.9 notwithstanding any enforcement of the security of any Security Interest, the Concessionaire shall remain responsible to the Authority for the payment of all sums owing to the Authority under this Concession Agreement and the performance and observance of all of the Concessionaire's covenants and obligations under this Concession Agreement; and

19.1.10 a Security Holder shall not, by virtue of its Security Interest, acquire any greater rights or interest in the Site and the Port Facilities than the Concessionaire has at any applicable time under this Concession Agreement, other than such rights or interest as may be granted or acquired in accordance with Sections 19.2, 19.3, 19.4 or 19.5.

19.2 Notices and Payments to Security Holders

Whenever a Security Interest exists as to which the Authority has been provided notice by the Concessionaire or the holder thereof in accordance with the Security Holder Notice Requirements, the Authority shall, simultaneously with providing the Concessionaire any required notice under this Concession Agreement, provide a copy of such notice to such Security Holder, and no such notice to the

Concessionaire shall be effective against the Security Holder until a copy thereof is duly provided to such Security Holder at its address specified in its notice given to the Authority in accordance with the Security Holder Notice Requirements (or any subsequent change of address notice given to the Authority pursuant to the requirements of Section 23.1). With respect to a Security Interest regarding which the Authority has been provided notice in accordance with the Security Holder Notice Requirements, unless the Security Holder recognized by the Authority pursuant to Section 19.7 has otherwise advised the Authority in writing, all payments to the Concessionaire to be made by the Authority under this Concession Agreement shall be made to the Security Holder or to the institution acting as the collateral agent or depository under the financing provided by such Security Holder. The Concessionaire waives any claims against the Authority related to payments made by the Authority to the Security Holder or to the institution acting as the collateral agent or depository under the financing provided by such Security Holder in accordance with this Section 19.2.

19.3 Security Holder's Right to Cure

The Security Holder shall have a period of 60 days with respect to any Concessionaire Event of Default beyond any cure period expressly provided to the Concessionaire herein, in which to cure or cause to be cured any such Concessionaire Even of Default; *provided, however*, that such 60-day period shall be extended if the Concessionaire Event of Default is non-monetary, is not a Concessionaire Event of Default described in Section 15.1.3, Section 15.1.4 or Section 15.1.5 and may be cured but cannot reasonably be cured within such period of 60 days, and the Security Holder begins to cure such default within such 60-day period (or if possession is necessary in order to effect such cure, the Security Holder, within such 60-day period, files the appropriate legal action to commence foreclosure on the liens of the Security Interest or takes other appropriate action to commence a transfer of title to the relevant property) and thereafter proceeds with all due diligence to cure such Concessionaire Event of Default (including by proceeding with all due diligence to effect such foreclosure and during such foreclosure action (to the extent practicable) and thereafter to effect such a cure) within a reasonable period of time acceptable to the Authority, acting reasonably. If a Security Holder is acting to cure a Concessionaire Event of Default in accordance with this Section 19.3, then the Authority shall not exercise its right to terminate this Concession Agreement by reason of such Concessionaire Event of Default; *provided, however*, that the Authority may exercise any of its other rights and remedies provided for hereunder at law or in equity so long as the exercise of such rights does not interfere with the Security Holder's rights hereunder and *provided further* that nothing in this Section 19.3 shall diminish any of the rights of the Authority to access the Site and the Port Facilities pursuant to Section 7.2. In furtherance of the foregoing, the Authority shall permit the Security Holder the same access to the Site and the Port Facilities as is permitted to the Concessionaire hereunder; *provided* that any actions taken by a Security Holder pursuant to this Section 19.3 shall be undertaken in accordance with the provisions of this Concession Agreement that would be applicable to the Concessionaire were it taking such actions. The Authority shall accept any such performance by a Security Holder or its nominee as though the same had been done or performed by the Concessionaire. Any payment to be made or action to be taken by a Security Holder hereunder as a prerequisite to keeping this Concession Agreement in effect shall be deemed properly to have been made or taken by the Security Holder if such payment is made or action is taken by a nominee, agent or assignee of the rights of such Security Holder. Any exercise of the Security Holder's rights to cure hereunder shall not result in the assumption by such Security Holder of the Concessionaire's obligations hereunder.

19.4 Rights of the Security Holder

19.4.1 Subject to the provisions of this Concession Agreement, a Security Holder may (i) enforce any Security Interest in any lawful way, (ii) acquire the Concession Rights in any lawful way or (iii) take possession of in any lawful way and manage the Site and the Port Facilities. Upon

foreclosure of the Security Interest (or without foreclosure upon exercise of any contractual or statutory power of sale under such Security Interest or an assignment in lieu) and subject to the provisions of Section 17.1 (applied to the Security Holder as if it were the Concessionaire), a Security Holder may transfer the Concession Rights; *provided, however*, that no transfer by a Security Holder shall be effective unless the transfer is made in accordance with Section 17.1. Any Person to whom the Security Holder transfers the Concession Rights (including such Security Holder) shall take the Concession Rights subject to any of the Concessionaire's obligations under this Concession Agreement. The Security Holder is not permitted in connection with its enforcement of its lien to do anything that would materially and adversely affect the Site, the Port Facilities or the Port Services.

19.4.2 Except as provided in Section 19.3, unless and until a Security Holder (i) forecloses or has otherwise taken ownership of the Concession Rights or (ii) has taken possession or control of the Concession Rights, whether directly or by an agent as a mortgagee in possession or a receiver or receiver and manager has taken possession or control of the Concession Rights by reference to the Security Interest, the Security Holder shall not be responsible for any of the Concessionaire's obligations under this Concession Agreement or be entitled to any of the Concessionaire's rights and benefits contained in this Concession Agreement, except by way of security. During any period in which the Security Holder itself or by an agent or a receiver or a receiver and manager is the owner, or is in control or possession of, the Concession Rights, it shall be bound by all liabilities and obligations of the Concessionaire accruing under this Concession Agreement during such period (including the obligation to engage an Operator). Once the Security Holder goes out of possession or control of the Concession Rights or transfers the Concession Rights to another Person in accordance with the provisions of this Concession Agreement, the Security Holder shall cease to be responsible for any of the Concessionaire's obligations under this Concession Agreement accruing thereafter, and to the extent assumed by any transferee or any other Person acceptable to the Authority in accordance with the terms of this Concession Agreement, for any of the Concessionaire's obligations under this Concession Agreement accrued during the period in which the Security Holder itself or by an agent or a receiver and manager was the owner, or was in control or possession of, the Concession Rights, and shall cease to be entitled to any of the Concessionaire's rights and benefits contained in this Concession Agreement, except, if the Security Interest remains outstanding, by way of security.

19.5 Authority's Termination of this Concession Agreement; New Agreement

19.5.1 Without prejudice to the rights of a Security Holder under Section 19.3, if this Concession Agreement is terminated prior to the expiration of the Concession Period due to a Concessionaire Event of Default (in which case the Authority shall notify the Security Holder of such termination and deliver to the Security Holder, together with such notice, a Statement of Estimated Liabilities) or if this Concession Agreement is rejected or disaffirmed pursuant to any bankruptcy law or proceeding or other similar Applicable Law or proceedings affecting creditors' rights generally with respect to a bankruptcy proceeding relating to the Concessionaire or otherwise, the Authority agrees, if there are outstanding obligations to a Security Holder, to enter into a new concession agreement of the Site and the Port Facilities with the Security Holder (or its designee or nominee; *provided* that such designee or nominee either is controlled by the Security Holder or is approved by the Authority as transferee under Section 17.1) for the remainder of the Concession Period upon all of the covenants, agreements, terms, provisions and limitations of this Concession Agreement and all of the agreements, terms, provisions and limitations relating to the engagement of an Operator (the "**New Agreement**"), effective as of the date of such termination. The Authority's obligation to enter into a new concession agreement of the Site and the Port Facilities pursuant to the preceding sentence is subject to the satisfaction of all of the following requirements and conditions: (i) such Security Holder (or its designee or nominee) commits in writing to the Authority, in a notice delivered to the Authority, within 30 days after the Authority delivers the termination notice and Statement of Estimated Liabilities to the Security

Holder (or, if later, upon the termination of any cure period granted to the Security Holder pursuant to Section 19.3) or within 10 days after the effective date of such rejection or disaffirmance, as the case may be, that the Security Holder (or its designee or nominee) will enter into the New Agreement, which notice is accompanied by a copy of such New Agreement, duly executed and acknowledged by the Security Holder (or its designee or nominee); (ii) reasonably in advance of the execution of the New Agreement, the Security Holder (or its designee or nominee) pays or causes to be paid to the Authority, at the time of the execution and delivery of such New Agreement, (A) all amounts set forth in the Statement of Estimated Liabilities which, at the time of the execution and delivery thereof, would have been past-due or due and payable in accordance with the provisions of this Concession Agreement but for such termination and (B) all reasonable costs and expenses (including legal fees), Taxes, fees, charges and disbursements set forth in the Statement of Estimated Liabilities paid or incurred by the Authority in connection with such defaults and termination, the recovery of possession from the Concessionaire, and the preparation, execution and delivery of the New Agreement and related agreements; and (iii) such Security Holder (or its designee or nominee), at the time of such written request, cures all Concessionaire Events of Default under this Concession Agreement (curable by the payment of money) that are existing immediately prior to the termination of this Concession Agreement set forth in the Statement of Estimated Liabilities, or, if such defaults cannot be cured by the payment of money, such Security Holder (or its designee or nominee) commits to the Authority in the New Agreement to proceed both promptly and diligently, upon the execution of the New Agreement, to cure all such other Concessionaire Events of Default (to the extent curable) set forth in the Statement of Estimated Liabilities and, if possession is necessary in order to cure such other Concessionaire Events of Default, to proceed both promptly and diligently to obtain the possession required to cure any such other defaults to the extent curable (and such cure shall be a covenant in the New Agreement).

19.5.2 Nothing contained in this Section 19.5 shall be deemed to limit or affect the Authority's interest in and to the Site and the Port Facilities upon the expiration of the Concession Period of the New Agreement. The provisions of this Section 19.5 shall survive the termination of this Concession Agreement and shall continue in full force and effect thereafter to the same extent as if this Section 19.5 were a separate and independent contract made by the Authority, the Concessionaire and the Security Holder and, if the Security Holder satisfies the conditions to a New Agreement from the effective date of such termination of this Concession Agreement to the date of execution and delivery of the New Agreement, the Security Holder may use and enjoy the rights created by this Concession Agreement without hindrance by the Authority, but only on and subject to the terms and provisions of this Concession Agreement.

19.5.3 The Security Holder shall be entitled to request that the Authority pre-qualify pursuant to Section 17.1 one or more potential transferees of the Concession Rights in connection with any prospective exercise of the Security Holder's rights hereunder; *provided* that the Security Holder reimburses the Authority for the reasonable cost and expense of such pre-qualification. Any such approval by the Authority of such a potential transferee shall be valid for one year after approval, *provided* that the Security Holder shall be obligated to notify the Authority if the Security Holder becomes aware during such one-year period of a reasonable basis for the Authority to withhold its approval under Section 17.1 and *provided further* that the Authority may rescind such approval if the Authority becomes aware during such one-year period (through the Security Holder or otherwise) of a reasonable basis for the Authority to withhold its approval under Section 17.1.

19.6 Right to Dispute Resolution

In each case specified in this Concession Agreement in which resort to dispute resolution is authorized, the Security Holder shall have the right and privilege if an event of default under the Security Interest then exists and notice has been given to the Authority as contemplated by Section 19.1.6, in the

Concessionaire's name, place and stead, to obtain and participate in such dispute resolution upon notice to the Authority in accordance with Section 18; *provided* that the Security Holder agrees to be bound by the outcome of the dispute resolution process.

19.7 Recognition by the Authority of Security Holder

Notwithstanding anything in this Concession Agreement to the contrary, if there is more than one Security Holder, only that Security Holder, to the exclusion of all other Security Holders, whose notice was earliest received by the Authority pursuant to the Security Holder Notice Requirements, shall have the rights as a Security Holder under this Section 19, or otherwise under this Concession Agreement, unless such Security Holder has designated in writing another Security Holder to exercise such rights; *provided, however*, that such notice may name more than one Security Holder and the rights referred to in this Section 19.7 may extend to all Security Holders named therein if such notice is submitted by a representative of all such Security Holders (which representative may itself be a Security Holder). Any references in this Concession Agreement to the "Security Holder" shall be references to the Security Holder or representative of more than one Security Holder, acting on behalf of such Security Holders, whose notice was earliest received by the Authority pursuant to the Security Holder Notice Requirements unless the context otherwise requires.

SECTION 20.

GOVERNING LAW; SUBMISSION TO JURISDICTION

The rights and obligations of the Parties under or pursuant to this Concession Agreement shall be governed by and construed in accordance with the laws of the State, without giving effect to any provision that would result in the application of the laws of another jurisdiction. Without prejudice to the provisions of Section 18, each Party hereby irrevocably and unconditionally submits, for itself and its property, to the sole and exclusive jurisdiction of the state and federal courts within the State and any appellate court from any thereof, in any legal action, suit or proceeding arising out of or relating to this Concession Agreement.

SECTION 21.

MISCELLANEOUS

21.1 Project Agreements

The Concessionaire shall not, and shall ensure that none of its employees, representatives or Subcontractors, shall, take any action or enter into any other Project Agreement which would cause it or the Authority to be in breach of, or unable to perform its obligations under, this Concession Agreement or that could otherwise frustrate the purposes of any this Concession Agreement.

21.2 Entire Agreement

This Concession Agreement constitutes the entire agreement between the Parties in relation to the subject matter hereof and supersede any or all previous agreements or arrangements, whether oral or written, between the Parties in respect of the subject matter hereof.

21.3 Confidentiality

Each Party shall keep in confidence all drawings, records, data, books, reports, documents and information, whether technical, commercial or financial in nature, supplied to it by or on behalf of another Party relating to the Project that are designated as confidential by the applicable Party and shall not disclose the same in any manner other than for the purpose of raising financing for the Project (whether by way of debt or equity), for the operation of the Port Facilities, for the purpose of performing its obligations hereunder, or as it may necessarily be required to disclose pursuant to Applicable Laws or orders of appropriate Relevant Authorities or as may be required by the Authority in connection with procuring a substitute for the Concessionaire; *provided* that nothing in this Section 21.3 shall limit the Authority's right to use such documents and information in circumstances where this Concession Agreement has been terminated in accordance with Sections 3 or 15. The provisions of this Section 21.3 shall, for the avoidance of doubt, supersede all confidentiality provisions contained in any prior agreement between the Parties.

21.4 Variations in Writing

Any and all additions, amendments and variations to this Concession Agreement shall be binding only if in writing and signed by duly authorized representatives of each of the Parties.

21.5 Time and Indulgence

21.5.1 No waiver by either Party of any default by the other in the performance of any of the provisions of this Concession Agreement: (a) shall operate or be construed as a waiver of any other or further default whether of a like or different character; or (b) shall be effective unless in writing duly executed by an authorized representative of such Party.

21.5.2 The failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Concession Agreement or time or other indulgence granted by one Party to the other shall not thereby act as a waiver of such breach or acceptance of any variation.

21.5.3 Any time or other indulgence allowed by one Party to the other in which to perform its duties and obligations hereunder or to remedy any breach hereof shall not be, and shall not be construed as, a waiver by the Party giving such time or indulgence of any of its rights hereunder. Any such time or indulgence or waiver may be on and subject to such terms and conditions as the Party giving it may specify and shall be without prejudice to that Party's then accrued rights except to the extent expressly varied in such time, indulgence or waiver.

21.6 Interest

Any Party in default of payment of any amount due hereunder shall pay interest thereof at the following rate: (a) a rate of three (3) per cent per annum above Prime Rate during the first thirty (30) days after the applicable default; (b) a rate of four (4) per cent per annum above Prime Rate during the second thirty (30) days after the applicable default; (c) a rate of five (5) per cent per annum above Prime Rate during the third thirty (30) days after the applicable default; and (d) a rate of six (6) per cent per annum

above Prime Rate thereafter. Such interest shall be computed on a daily basis from the due date until the relevant amount together with accrued interest is fully paid by the defaulting Party.

21.7 No Third Party Beneficiaries

This Concession Agreement is made exclusively for the benefit of the Authority and the Concessionaire and no third party shall have any rights hereunder or be deemed to be a beneficiary hereof, except as may be expressly provided herein.

21.8 Severability

If any provision of this Concession Agreement is or becomes wholly or partly invalid, illegal, or unenforceable: (a) the validity, legality and enforceability of the remaining provisions shall continue in force unaffected; and (b) the Parties shall meet as soon as possible and negotiate in good faith upon a replacement provision that is legally valid and that as nearly as possible achieves the objectives of this Concession Agreement and produces an equivalent economic effect.

A replacement provision shall apply as of the date that the replaced provision has become invalid, illegal or unenforceable. If the Parties cannot reach agreement in good faith, any Party may invoke the dispute resolution procedure of Section 18 hereof.

21.9 Independent Contractor

The Concessionaire is an independent contractor, and except as provided in Section 2.5.3 nothing contained in this Concession Agreement shall be construed as constituting any relationship with the Authority other than that of granting authority and independent contractor. In no event shall the relationship between the Authority and the Concessionaire be construed as creating any relationship whatsoever between the Authority and the Concessionaire's employees. Neither the Concessionaire nor any of its employees is or shall be deemed to be an employee of the Authority. Except as otherwise specified in this Concession Agreement, the Concessionaire has sole authority and responsibility to employ, discharge and otherwise control its employees and has complete and sole responsibility as a principal for its agents, for all Subcontractors and for all other Persons that the Concessionaire or any Subcontractor hires to perform or assist in performing the obligations of the Concessionaire under or in connection with this Concession Agreement.

21.10 No Estoppel

The Authority shall not, nor shall any officer thereof, be precluded or estopped by any statement, document or certificate made or given by the Authority, its consultants or representatives or any other officer, agent, or employee of the Authority from at any time showing the true and correct amount and character of the work performed or the designs or materials furnished by the Concessionaire or any other Person under this Concession Agreement, or from showing at any time that any such statement, document or certificate is untrue and incorrect, or improperly made in any particular, or that any such work, design or materials, or any part thereof, do not in fact conform to the requirements of this Concession Agreement; and the Authority shall not be precluded or estopped, notwithstanding any such statement, document or certificate or payment in accordance therewith, from demanding and recovering from the Concessionaire such damages as it may sustain by reason of the Concessionaire's failure to comply with this Concession Agreement.

21.11 Further Assurances

The Concessionaire shall promptly execute and deliver to the Authority all such instruments and other documents and assurances as are reasonably requested by the Authority to further evidence the obligations of the Concessionaire hereunder or otherwise to effectuate the purposes of this Concession Agreement.

SECTION 22.

NOTICES

22.1 Address for Notices

Any notice or communication to be given under or in connection with this Concession Agreement shall be given in writing and shall either be delivered personally or sent by registered mail or internationally recognized overnight courier. The addresses for service of the Parties shall be those provided below, or such other address as any Party may notify in writing to the other Parties for this purpose.

to the Concessionaire:	Gateway New London, LLC c/o Enstructure LLC 16 Laurel Avenue, Suite 300 Wellesley, MA 02481 Attn: Chief Legal Officer
with a copy to:	Morgan Lewis & Bockius LLP One Federal Street Boston, MA 02110 Attn: Michael A. Muller
to the Authority:	Connecticut Port Authority 455 Boston Post Road, Suite 204 Old Saybrook, CT 06475 Attn: Executive Director
with a copy to:	Robinson & Cole LLP 280 Trumbull Street Hartford, CT 06103 Attn: Glenn A. Santoro, Esq.

22.2 Deemed Service

A notice shall be deemed to have been duly serviced as follows: (a) if personally delivered, at the time of receiving; (b) if sent by registered mail, on the third Business Day following the date of posting; and (c) if sent by internationally recognized overnight courier, upon receipt of confirmation of delivery.

In providing such service it shall be sufficient to prove that personal delivery was made or that the letter was properly addressed and dispatched.

22.3 Change of Address

Either Party may change a nominated address to another address by prior notice to the other Party.

22.4 Counterparts; Facsimile Execution.

This Concession Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Concession Agreement shall be effective when it has been executed by each Party and delivered to all Parties. To evidence the fact that it has executed this Concession Agreement, a Party may send a copy of its executed counterpart by electronic transmission. Such Party shall be deemed to have executed and delivered this Concession Agreement on the date it sent such electronic transmission. In such event, such Party shall forthwith deliver an original counterpart of this Concession Agreement executed by such Party.

22.5 Contracting Requirements.

In accordance with Applicable Law and the operating procedures of the Authority, Concessionaire shall comply with the applicable procurement and contracting requirements as set forth on Annex D attached hereto.

SECTION 23.

JOINT PREPARATION

All Parties have participated equally and freely in negotiating and drafting this Concession Agreement, with the advice of legal counsel selected by it. The Parties acknowledge and agree that any rule of construction that a document is to be construed against the drafting Party shall not be applicable to this Concession Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Concession Agreement has been executed by duly authorized representatives of the Parties hereto as of the day, month and year first above written.

On behalf of the Authority:

CONNECTICUT PORT AUTHORITY

By: _____
Name: Evan H. Matthews
Title: Executive Director

On behalf of the Concessionaire:

GATEWAY NEW LONDON LLC

By: _____
Name: Matthew Satnick
Title: Authorized Representative

ANNEX A

DEFINITIONS

"**AAA**"	has the meaning ascribed thereto in Section 18.3;
"**AAA Rules**"	has the meaning ascribed thereto in Section 18.3;
"**Accounting Principles**"	means generally accepted accounting principles of the United States of America, or, if accepted by the Authority in writing, International Accounting Standards (IAS) promulgated by the International Accounting Standards Committee, in either case applied on a consistent basis;
"**Affiliate**"	means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person; and *provided, further*, that an Affiliate of any Person shall also include (a) any Person that directly or indirectly owns more than fifty percent (50%) of any class of capital stock or other equity interest of such Person, (b) any officer, director, trustee or beneficiary of such Person, (c) any spouse, parent, sibling or descendant of any natural Person described in paragraphs (a) or (b) above, and (d) any trust for the benefit of any Person described in paragraphs (a) through (c) above or for the benefit of any spouse, issue or lineal descendant of any Person described in paragraphs (a) through (c) above;
"**Annual Deposit**"	means the Letter of Credit or the deposit held in an Escrow Account pursuant to Section 2.4.4;
"**Annual Environmental Report**"	has the meaning given to that term in Section 10.8;
"**Annual Fixed Fee**"	has the meaning given to that term in Section 2.4;
"**Applicable Law**"	means any international, national, United States, State, municipal or other local statute, treaty, regulation, resolution, rule, ordinance, opinion, enactment, judgment, decision, award, order, code, decree, directive, requirement, any common or customary law, constitutional law or other governmental restriction (including any Regulatory Approval) applicable to the Parties, the Project, the Port Facilities, the Port Services, the Site or any of the transactions contemplated hereby, and any form or decision of or determination by or interpretation of any of the foregoing by any Relevant Authority, now or hereafter in effect, in each case as amended, re-enacted or replaced;
"**Assumed Obligations**"	has the meaning given to that term in Section 2.7;
"**Authority**"	means the Connecticut Port Authority and its successors and permitted assigns;

"Authority Event of Default"	has the meaning given to that term in Section 15.3;
"Authority Indemnified Parties"	Means each of the Authority and the State, and their respective representatives, directors, officers, agents, employees, attorneys and subcontractors;
"Authority Services Change"	has the meaning given to that term in Section 8.5;
"Authority Tariff"	means the MTO Schedule published by the Authority in accordance with Section 2.1.4;
"Business Day"	means a day (other than a Saturday or Sunday) on which the offices of the government of the State are open for business;
"BSW"	means Bay State Wind, or its Affiliate
"BSW Development"	means the contemplated harbor development and sublease agreement by and between the Authority, the Concessionaire and BSW.
"Capital Improvement"	means any improvement, alteration or addition to the Port Facilities, or any part thereof (other than any repair or maintenance of the Port Facilities).
"Capital Improvements Commitment"	has the meaning given to that term in Section 9.4.1;
"Cargo"	means bulk, breakbulk, project cargoes, containers and all other containerized cargo;
"Change in Control"	means, with respect to the Concessionaire, whether accomplished through a single transaction or a series of related or unrelated transactions and whether accomplished directly or indirectly, (i) a change in ownership so that 50% or more of the direct or indirect voting or economic interests in the Concessionaire is transferred to another Person or group of Persons acting in concert, (ii) the power, directly or indirectly, to direct or cause the direction of management and policy of the Concessionaire, whether through ownership of voting securities, by contract, management agreement, or common directors, officers or trustees or otherwise, is transferred to another Person or group of Persons acting in concert or (iii) the merger, consolidation, amalgamation, business combination or sale of substantially all of the assets of the Concessionaire; *provided, however*, that notwithstanding anything to the contrary set forth in this definition, none of the following shall constitute a "Change in Control" for the purposes of this Concession Agreement: (a) transfers of direct or indirect ownership interests in the Concessionaire between or among Persons that are Affiliates of each other or Persons who are under common control (a Person shall be deemed to be controlled by another Person if controlled in any manner whatsoever that results in control in fact by that other Person (or that

other Person and any Person or Persons with whom that other Person is acting jointly or in concert)), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise;

(b) transfers of shares of the Concessionaire or the direct or indirect shareholders of the Concessionaire pursuant to *bona fide* open market transactions on the New York Stock Exchange, NASDAQ, London Stock Exchange or a comparable United States or foreign securities exchange, including any such transactions involving an initial or "follow on" public offering;

(c) transfers of direct or indirect ownership interests in the Concessionaire by any Equity Participant or its beneficial owner(s) to any Person or issuance of new direct or indirect ownership interests in the Concessionaire to any Person, so long as (in any case) the Equity Participants or their respective beneficial owner(s) having ownership interests in the Concessionaire as of the Effective Date together retain, in the aggregate, actual control of the power (directly or indirectly) to direct or cause the direction of the management and policy of the Concessionaire, through voting membership on the board of directors (or equivalent body) of the Concessionaire;

(d) transfers of direct or indirect ownership interests in the Concessionaire by any Equity Participant or its direct or indirect beneficial owner(s) to any partners, members, shareholders, directors, officers, employees or investors who are distributees of investments held by such Equity Participant or beneficial owner(s) pursuant to any *bona fide* liquidation of such Equity Participant or beneficial owner(s) as a result of which securities held by such entity are distributed to such distributees; and

(e) transfers of direct or indirect ownership interests in the Concessionaire by an individual who is an Equity Participant holding 50% or more of the direct or indirect interest in the Concessionaire; *provided* that such transfer occurs as a result of the death of the individual or through a gift by the individual for which no consideration is received;

"Closing" has the meaning given to that term in Section 4.3.1;

"Closing Date" has the meaning given to that term in Section 4.3.2;

"Closing Deposit" has the meaning given to that term in Section 4.2.1;

"Code" means Internal Revenue Code;

"Concession Agreement" has the meaning given to that term in the Preamble;

"Concession Fees" means the Annual Fixed Fee and the Variable Fee payable by the Concessionaire to the Authority in accordance with the terms set out in Section 2.4;

"Concession Period"	means the period as specified in Section 3.1, subject to extension and/or to termination in accordance with this Concession Agreement;
"Concession Rights"	means all the rights conferred on the Concessionaire pursuant to this Concession Agreement, including the right of the Concessionaire to use and occupy the Site and the Port Facilities for the purposes of providing the Port Services and implementing its other rights and obligations hereunder;
"Concessionaire Event of Default"	has the meaning given to that term in Section 15.1;
"Concessionaire Services Change"	has the meaning given to that term in Section 8.3.1;
"Concessionaire"	has the meaning given to that term in the Preamble;
"Cranes"	means any fixed ship to shore cranes, mobile cranes, rubber tire gantry cranes and other related or similar equipment used at the Port Facilities by the Concessionaire as required or otherwise permitted pursuant to this Concession Agreement;
"Debt"	means, with respect to any Person, the aggregate (as of the relevant date of calculation) of all such Person's obligations (whether actual or contingent) to pay or repay money, including obligations in respect of: (a) borrowed money or debit balances at financial institutions; (b) the outstanding principal amount of any bonds, notes, loan stock, commercial paper, acceptance credits, debentures and bills or promissory notes drawn, or any other security accepted, endorsed, guaranteed or issued by such Person, together with accrued interest thereon; (c) amounts raised under any other transaction having the commercial effect of a borrowing and which would be classified as a borrowing (and not as an off-balance sheet financing) under Accounting Principles including, without limitation, under leases or similar arrangements entered into primarily as a means of financing the asset leased; any credit to such Person from a supplier of goods or under any installment purchase or other similar arrangement in respect of goods or services; (d) liabilities of any other Person to the extent that such Person provides a guarantee of such liabilities; (e) liabilities of such Person (actual or contingent) under any conditional sale or a transfer with recourse or obligation to repurchase, including by way of discount or factoring of book debts or receivables; (f) non-contingent obligations to reimburse any other Person in respect of amounts paid under a letter of credit, acceptance, documentary credit or similar instrument; and (g) any swap agreement, cap agreement, collar agreement, futures contract, forward contract or similar arrangement with respect to interest rates, currencies, commodities or indices or otherwise relating to the hedging

	of assets or liabilities;
"Default"	means any event, circumstance or condition that constitutes an Event of Default or which, upon notice, lapse of time or any combination thereof, would become an Event of Default;
"Depositary"	means a savings bank, a savings and loan association or a commercial bank or trust company which would qualify as an Institutional Lender, designated by the Concessionaire and approved by the Authority, to serve as depositary pursuant to this Concession Agreement;
"Designated Senior Person"	means such individual who is designated as such from time to time by each Party for the purposes of Section 18.2;
"Discriminatory Change in Law"	means any change in Applicable Law enacted (or which comes into force) after the Effective Date by the State or the Authority or their agencies or instrumentalities, the terms of which have a material adverse effect on the Project or on the Concessionaire;
"Dollars", "USD" or **"$"**	means the lawful currency from time to time of the United States of America;
"Effective Date"	means the date set forth on the title page of this Concession Agreement;
"Emergency"	means a condition, situation or occurrence whereby the security of any Port Facility or User is or is likely to be in danger or where bodily injury or death or damage to the Port Facilities or other property located within the Site is likely to occur, including any collision of a vessel with any other vessel or the Port Facilities or other property;
"Employee"	means a person employed by the Concessionaire or the Operator or assignee thereof in connection with the Project;
"Encumbrance"	means any mortgage, pledge, charge, assignment, hypothecation, lien (statutory or other), security interest, deposit arrangement, encumbrance, right of set-off, trust arrangement, option, counterclaim, preference, priority agreement or any other equity or preferential arrangement of any kind or nature whatsoever (including any designation of loss payees or beneficiaries or any similar arrangement under or with respect to any insurance policy, any conditional sale or other title retention agreement and any lease having substantially the same economic effect as any of the foregoing) or any agreement or arrangement to create any of them;
"Environment"	means any air (including air within natural or man-made structures above or below ground), water (including surface, sub-surface, territorial, coastal and inland waters and ground water and water in drains and sewers), land (including the sea bed or river bed under any water), surface land and sub-surface land, natural resources, flora, fauna

or man;

"Environmental Consultant"	means an independent environmental consultant of international reputation and standing;
"Environmental Indemnity"	means the indemnity provided in Section 12.2;
"Environmental Law"	means any Applicable Law applicable or relating to the Environment, Hazardous Substances or human health and safety including, for the avoidance of doubt, all Applicable Laws applicable or relating to (a) the dredging, excavation, transport, remediation, storage, handling or Release of materials from or to the Site or the Port Facilities, (b) any endangered species, or (c) the discovery, preservation, protection, handling, removal, transport or handling of any cultural prehistoric dwelling sites or artifacts;
"Environmental Matter"	means (a) any actual or alleged presence, Release or threatened Release of any Hazardous Substance in, on, at, under or from any Site; (b) any actual or alleged off-site migration of any Hazardous Substance referred to in (a) above or the actual or alleged presence, Release or threatened Release of any Hazardous Substance at any off-site location resulting from or in connection with any activities of the Concessionaire; or (c) any actual or alleged Loss, requirement, commitment or obligation arising under or relating to any Environmental Law or Environmental Permit including, for the avoidance of doubt, any actual or alleged personal injury, property or natural resource damages arising under or relating to any Environmental Law;
"Environmental Permit"	means any Regulatory Approval required under or issued pursuant to any Environmental Law;
"Equity Participant"	means any Person who holds any Equity Securities in the Concessionaire or the Operator, as applicable;
"Equity Security"	means with respect to a Person: (a) any capital stock, partnership interest, membership interest or similar security or ownership interest in such Person; (b) any preferred security or debt obligation or other security of such Person convertible or exchangeable with or without consideration into a security as described in clause (a) above; (c) any such warrant, option or right convertible or exchangeable with or without consideration into a security as described in clause (a) above; and (d) any security of such Person having a direct or indirect participation in the profits of such Person or having the right to vote for the election of one or more members of the board of directors or other governing body of such Person; *provided* that the term Equity Security shall not include any publicly traded capital stock, partnership interest or similar security or ownership interest in an investment company registered under the Investment Company Act of 1940 or similar investment company incorporated outside of the United States of America, which investment company owns or has a nominal or

	beneficial ownership interest in such Person;
"Escrow Account"	means an escrow deposit account established by the Authority and the Concessionaire with a Depositary;
"Event of Default"	means a Concessionaire Event of Default or a Authority Event of Default;
"Excluded Obligations"	has the meaning given to that term in Section 2.7;
"Existing Contract"	means each contract or agreement relating to the Site or the Port Facilities identified in Schedule 4 (Existing Contracts).
"Exon-Florio Act"	has the meaning given to that term in Section 4.6.2;
"Fair Market Value"	means the fair market value as determined by an appraisal process reasonably agreed upon by the Parties, and if the Parties cannot agree on an appraisal process within 30 days, the Parties shall select a single appraiser reasonably acceptable to each Party who will deliver an appraisal of such fair market value. The Parties will each pay 50% of the fees, costs and expenses in connection with any appraisal;
"Ferry"	has the meaning given to that term in Section 7.2.3;
"Final Environmental Study"	means the study and evaluation of existing environmental conditions to be conducted in accordance with the provisions of Section 15.5.4;
"First Extension Period"	has the meaning given to that term in Section 3.1.2;
"Fixtures and Fittings"	means, in relation to the Site, all fixtures and fittings in or upon any terminal, building, pier, dock, wharf or other structure located within the Site, as the case may be, including plant and machinery, lifts, conveyor systems, boilers, central heating, air-conditioning, lighting, plumbing, sanitary and sprinkler systems, electrical plant and generators and electronic equipment, but excluding the Cranes;
"Force Majeure"	has the meaning given to that term in Section 14.1;
"Good Industry Practice"	means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator adhering to internationally recognized good practices prevailing at the relevant time and seeking in good faith to comply with its contractual obligations, the Port Standards and all other Applicable Laws;
"Gross Revenues"	means, for any period, all revenues, including receipts, proceeds, income and other money, received by Concessionaire, during such period from the ownership, leasing or operation of, or in connection with, the Port Facilities, including, among others, revenues derived from stevedoring, shorehandling and storage revenue, all User Fees (but

	excluding those User Fees paid by the Concessionaire pursuant to Section 2.5.1(b) hereof), services rendered by, or any use or occupancy of, the Port Facilities or any part thereof, or revenues derived from rents, leases, subleases, contracts, accounts receivable, insurance and other sources, proceeds derived from condemnation awards and insurance, grants, appropriations and other receipts that would be considered gross revenues in accordance with generally accepted accounting principles, including the income and profits therefrom, but excluding and dedicated from the above: (i) utility reimbursements for water and electricity and (ii) reimbursement or payment for goods and services.
"**Handback Certificate**"	has the meaning given to that term in Section 16.2.2;
"**Handback Inspection**"	has the meaning given to that term in Section 16.2.1;
"**Handback Requirements**"	means the requirements set out or identified in Section 2.17 of Annex B (Port Services);
"**Hazardous Substance**"	means (a) any radioactive materials, asbestos-containing materials, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum byproducts and derivatives and radon gas, or (b) any other chemical, material, substance, waste, pollutant or contaminant that is capable of causing damage, harm or disruption to the Environment or is prohibited, limited or regulated by or pursuant to any Environmental Law;
"**Indemnification Notice**"	means a notice referred to in Section 12.5.1;
"**Indemnified Party**"	means the Party to be indemnified pursuant to Sections 12.1 to 12.6, as applicable;
"**Indemnifying Party**"	means the Party providing indemnification pursuant to Sections 12.1 to 12.6, as applicable;
"**Institutional Lender**"	means (a) the United States of America, any state thereof or any agency or instrumentality of either of them, any municipal agency, public benefit corporation or public authority, advancing or insuring mortgage loans or making payments which, in any manner, assist in the financing, development, operation and maintenance of projects, (b) any (i) savings bank, savings and loan association, commercial bank, trust company (whether acting individually or in a fiduciary capacity) or insurance company organized and existing under the laws of the United States of America or any state thereof, (ii) foreign insurance company or banking institution qualified to do business as an insurer or banking institution as applicable under the laws of the United States, (iii) pension fund, foundation or university or college or other endowment fund or (iv) real estate investment fund, infrastructure investment fund, investment bank, pension advisory firm, mutual fund, investment company or money management firm, (c) any "qualified institutional buyer" under Rule

144(A) under the United States Securities Act of 1933, as amended, or any other similar law hereinafter enacted that defines a similar category of investors by substantially similar terms, (d) conduit issuers established for the purpose of issuing private activity bonds authorized by law for the benefit of the Concessionaire or (e) any other financial institution or entity designated by the Concessionaire and approved by the Authority; *provided* that such institution or entity, in its activity under this Concession Agreement, shall be acceptable under then current guidelines and practices of the Authority; *provided, however,* that each such entity (other than entities described in clause (c) of this definition) or combination of such entities if the Institutional Lender shall be a combination of such entities shall have individual or combined assets, as the case may be, of not less than $500 million which shall include, in the case of an investment or advisory firm or fund, assets controlled by or under management;

"Insurance Requirements" means the obligations of the Concessionaire set forth in Section 13 with respect to the Site, the Port Facilities and the Port Services, including required insurance, obligations with respect to the payment of premiums and rights and obligations with respect to the payment of losses under insurance policies;

"Intangible Property" means the records, plans, specifications, engineering documents, soil data and analysis, systems, procedures, software, property acquisition documents, diaries, utility relocation plans, record maps, reports and samples relating to the Project;

"Letter of Credit" means an irrevocable, unconditional, commercial standby letter of credit, in favor of the Authority, in form and content reasonably acceptable to the Authority, payable in United States dollars upon presentation of a sight draft and a certificate confirming that the Authority has the right to draw under such letter of credit in the amount of such sight draft, without presentation of any other document, statement or authorization, which letter of credit (a) is issued by a commercial bank or trust company that has and maintains a current credit rating of A or better by Standard & Poor's Ratings Services and an equivalent credit rating by another Rating Agency (or an equivalent credit rating from at least two nationally recognized rating agencies if the named rating agency ceases to publish ratings) (or such other commercial bank or trust company reasonably acceptable to the Authority prior to the submission of the letter of credit); (b) provides for the continuance of such letter of credit for a period of at least one year or as otherwise provided in this Concession Agreement; and (c) has the office for presentment of sight drafts specified in the Letter of Credit located at a specified street address within Connecticut or New York, or such other location within the continental United States or its territories as is reasonably acceptable to the Authority;

"**Loss**"	means any loss, liability, damage, fine, penalty, reasonable attorney's or consultant's fee, expense or cost (including current or future unpaid Concession Fees and including any cost of limiting, mitigating, remediating, preventing, removing, addressing, investigating, monitoring, containing, evaluating, abating or cleaning up, or of reporting to and dealing with any Relevant Authority or third party in respect of the Release or threatened Release of any Hazardous Substances or any Environmental Matter), but excluding any punitive, remote, or speculative damages, and further excluding any contingent liability until such contingent liability becomes actual, and "**Losses**" means any one or more Loss;
"**Material Adverse Effect**"	means a material adverse effect on the business, financial condition or results of operations of the Port Facilities taken as a whole or the rights of the Concessionaire under this Concession Agreement; *provided, however*, that no effect arising out of or in connection with or resulting from any of the following shall be deemed, either alone or in combination, to constitute or contribute to a Material Adverse Effect: (a) general economic conditions or changes therein; (b) financial, banking, currency or capital markets fluctuations or conditions (whether in the United States, any of its territories or any international market and including changes in interest rates); (c) conditions affecting all of the real estate, financial services, construction or marine port industries; (d) any existing event, occurrence or circumstance of which the Concessionaire has knowledge as of the Effective Date; (e) any action, omission, change, effect, circumstance or condition contemplated by this Concession Agreement or attributable to the execution, performance or announcement of this Concession Agreement or the transactions contemplated hereby, with the exception of litigation related to the execution or delivery of this Concession Agreement; (f) any negligence, intentional misconduct or bad faith of the Concessionaire or its representatives; (g) any customer attrition occurring in the normal course or caused by the announcement of the transaction contemplated by this Concession Agreement; (h) any changes in industry standards, technology, available materials or resources; or (i) the adoption of any Applicable Law by any Relevant Authority after the Effective Date, or any change in any Applicable Law or in the interpretation or application thereof by any Relevant Authority after the Effective Date.

"Minimum Annual Guarantee" means that amount as set forth in the following table:

Applicable Period	Minimum Annual Guarantee
Closing Date through and including the fourth (4th) anniversary of the Closing Date	$500,000
Fifth (5th) anniversary of the Closing Date through and including the ninth (9th) anniversary of the Closing Date	The then-applicable Minimum Annual Guarantee, increased by the percentage equal to the compound annual growth rate (CAGR) for the Concessionaire's Gross Revenues over the period from the Closing Date through the fourth (4th) anniversary of the Closing Date
Tenth (10th) anniversary of the Closing Date through and including the fourteenth (14th) anniversary of the Closing Date	The then-applicable Minimum Annual Guarantee, increased or decreased, as applicable, by the percentage equal to the compound annual growth rate (CAGR) for the Concessionaire's Gross Revenues over the period from the fifth (5th) anniversary of the Closing Date through the ninth (9th) anniversary of the Closing Date; *provided* that, in any event, such Minimum Annual Guarantee shall not be less than $500,000
Fifteenth (15th) anniversary of the Closing Date through and including the nineteenth (19th) anniversary of the Closing Date	The then-applicable Minimum Annual Guarantee, increased or decreased, as applicable, by the percentage equal to the compound annual growth rate (CAGR) for the Concessionaire's Gross Revenues over the period from the tenth (10th) anniversary of the Closing Date through the fourteenth (14th) anniversary of the Closing Date; *provided* that, in any event, such Minimum Annual Guarantee shall not be less than $500,000

By way of illustration, presented on **Annex C** are examples of the calculation of Minimum Annual Guarantee in accordance with the terms of this definition.

"Movable Property"	means Movable plant, machinery, vehicles of all kinds (including tractors, trailers, trucks, forklift trucks, rolling stock), tools, equipment, furniture and other like articles used in connection with the Port Facilities (not being Fixtures and Fittings or Cranes);
"MTO Schedules"	means any marine terminal operator schedule or tariff published or made available to the public pursuant to the Shipping Act;
"New Agreement"	has the meaning given to that term in Section 19.5.1;
"Prime Rate"	means the interest rate announced from time to time by Bank of America, N.A. or any successor thereto as its "prime rate";
"Projected Annual Throughput"	has the meaning given to that term in Section 8.15.1;
"Operator"	has the meaning given to that term in Section 8.2.3;
"Outside Closing Date"	has the meaning given to that term in Section 4.1.1;
"Party"	means the Authority or the Concessionaire, as the case may be, and "**Parties**" means both of them;
"Performance Bond"	means a bond in an amount equal to the amount of Capital Improvement expenditures related to construction activities scheduled to be undertaken by the Concessionaire for each applicable year and issued on behalf of the Concessionaire in favor of the Authority by a bank or other financial institution or insurance company of international repute (which, in the case of an insurance company, must be authorized to issue policies in the State) with a credit rating from Standard and Poor's of not less than A or a financial strength rating from A.M. Best Company, Inc. of not less than A-VI (or such other rating as may be approved by the Authority);
"Permitted Concessionaire Encumbrance"	means, with respect to the Site and the Port Facilities: (a) any (i) lien or security interest for obligations not yet due and payable to a Subcontractor or other Person, (ii) any statutory lien, deposit or other non-service lien or (iii) lien, deposit or pledge to secure mandatory statutory obligations or performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, or for purposes of like general nature, any of which are incurred in the ordinary course of business of the Port Services and in respect of obligations that are not delinquent; (b) inchoate materialmen's, mechanics', workmen's, repairmen's, employees', carriers', warehousemen's, construction, or other like Encumbrances arising in the ordinary course of business of the Site and the Port Facilities or the Concessionaire's performance of its obligations hereunder, and in respect of obligations that are not delinquent; (c) any right reserved to or vested in any Relevant Authority by any statutory provision; (d) any other Encumbrance permitted hereunder (including any Security Interest or any Encumbrance created

	in connection with any financing permitted hereunder); © any Encumbrances created, incurred, assumed or suffered to exist by the Authority or any Person claiming through it except to the extent caused by an act or omission of the Concessionaire; and (f) any amendment, extension, renewal or replacement of any of the foregoing.
"Person"	means any individual, partnership, corporation, company, business organization, trust, governmental agency or other entity;
"Port Facilities"	means the reclamation, piers, docks, wharves, terminals, buildings, structures, storage areas, roads, railways, machinery, apparatus and like facilities intended to form or forming part of the works designed, built, constructed, located, maintained, operated and/or improved at the Site, including all supporting infrastructure, Cranes, Fixtures and Fittings and Movable Property incidental thereto or necessary or useful for the provision of the Port Services at the Site, as the same may be altered or added to from time to time in accordance with this Concession Agreement;
"Port Operations Manual"	means, as of the Closing Date, the manual attached as Schedule 5, and thereafter, the manual prepared by the Concessionaire and approved by the Authority in accordance with Section 8.6 setting forth quality objectives consistent with this Concession Agreement, the Port Standards, Good Industry Practice and all Applicable Laws and prescribing procedures, schedules, plans, instructions and timelines for the operation and maintenance of the Port Facilities and the provision of Port Services that are sufficient to meet or exceed the requirements of this Concession Agreement, the Port Standards, Good Industry Practice and all Applicable Laws (as the same shall be amended in accordance with Section 8.6 and in effect from time to time);
"Port Services"	means: (a) the services, responsibilities and other obligations of the Concessionaire specified in Annex B (Port Services), (b) all other services, responsibilities and other obligations of the Concessionaire as is provided elsewhere in this Concession Agreement, (c) such other business, activities, facilities and services as may be necessary or incidental to the provision of the foregoing or otherwise ordinarily provided from time to time at marine terminal facilities and (d) such other business, activities, facilities and services as the Concessionaire may be permitted or required to provide from time to time in accordance with Sections 8.3, 8.5 or any other provision of this Concession Agreement, or pursuant to the Port Standards, Applicable Laws or Good Industry Practice;
"Port Standards"	means the international, national, State, municipal, local or other laws, rules, regulations and/or standards as the same may be amended and updated from time to time governing safety, security, environmental, customs, drug interdiction, maritime traffic and other matters relevant to the provision of the Port Services;

"Project"	means (a) the administration, management, operation and maintenance of the Port Facilities and the provision of Port Services at the Site, and (b) all activities incidental thereto, all as contemplated by this Concession Agreement;
"Project Agreement"	means this Concession Agreement, each Subcontract, the Performance Bond and each other agreement or instrument initialed or otherwise designated in writing as a "Project Agreement" to which the Concessionaire is a party;
"Quiet Enjoyment"	means the right to use the Site for purposes of providing the Port Services without Undue Interference;
"Rating Agency"	means any of Standard & Poor's Corporation, Moody's Investors Service, Inc. or Fitch Investors Service, Inc. or any similar entity or any of their respective successors;
"Regulatory Approvals"	means, collectively, all licenses, permits, approvals, orders, authorizations, registrations, filings or consents required by Relevant Authorities, the Authority, Applicable Laws, the Port Standards, Good Industry Practice or generally accepted practices with respect to the administration, management, operation, improvement and maintenance of, and the provision of Port Services at, the Site and the Port Facilities;
"Release"	means any spilling, leaking, pumping, pouring, emitting, discharging, escaping, leaching, dumping, disposing, dispersing, injecting, depositing, emanating or migrating of any Hazardous Substance in, into, onto, or through the Environment or within any building, structure, facility or fixture;
"Relevant Authority"	means any United States Federal, State, local, municipal or other public authority, body, agency, ministry, department, commission, instrumentality, court, tribunal, judicial or arbitral body or other Person having jurisdiction over or with respect to the Concessionaire, the Port Facilities, the Port Services, the Site or the Project, including without limitation the U.S. Coast Guard and any other branch of the military services of the State or the United States;
"Second Extension Period"	has the meaning given to that term in Section 3.1.3;
"Security Holder"	means the holder or beneficiary of a Security Interest, including a financial insurer, or an agent, trustee or other representative or designee of such a holder or beneficiary;

"Security Holder Notice Requirements"	means the delivery, by either the Concessionaire or a Security Holder to the Authority of a true and complete copy of the executed original of such Security Interest, together with a notice containing the name and post office address of such Security Holder;
"Security Interest"	means any lease, indenture, pledge, mortgage, deed of trust or other security agreement or arrangement, including a securitization transaction with respect to User Fees, encumbering any or all of the Concession Rights (including the Site and the Port Facilities) and any cash reserves, deposits or assets held in the name of the Concessionaire that, in each case, satisfies all of the conditions in Section 19.1;
"Service Provider"	means any Person other than the Concessionaire from time to time engaged in providing to Users any or all of the Port Services, whether as a Subcontractor (of any tier) to the Concessionaire or under any other arrangement;
"Shipping Act"	means the Shipping Act of 1984, 46 U.S.C. §§ 40101-41309, as amended, modified or restated from time to time, and all applicable rules and regulations published by the Federal Maritime Commission from time to time in accordance therewith;
"Site"	means the land, spaces and surfaces described in Schedule 1 (Description of the Site);
"State"	means the State of Connecticut;
"Statement of Estimated Liabilities"	means a statement by the Authority setting forth (i) the relevant Concessionaire Event of Default or other circumstances giving rise to its right to terminate this Concession Agreement, (ii) all amounts that (A) are estimated to be due and payable by the Concessionaire to the Concessionaire under this Concession Agreement as of the date of such statement or (B) to the Authority's knowledge, are expected to become due and payable by the Concessionaire under this Concession Agreement on or prior to the date that is 30 days after the date of such statement, (iii) to the extent not included in clause (ii) above, all other obligations of the Concessionaire under this Concession Agreement known to the Authority that should have been, but have not been, performed as of the date of such statement and (iv) to the extent not included in clauses (ii) or (iii) above, all costs and expenses (including legal fees), Losses, costs in connection with Environmental Laws, Taxes, fees, charges and disbursements estimated to be paid or incurred by the Authority in connection with any Concessionaire Event of Default, the termination of this Concession Agreement, the recovery of possession from the Concessionaire, and the preparation, execution and delivery of the New Agreement and related agreements and the Statement of Estimated Liabilities that (A) are estimated to have been paid or incurred by the Authority as of the date of such statement or (B) to the best of the Authority's knowledge after due inquiry, are expected to be paid or incurred by the Authority on or prior to the date that is 30

	days after the date of such statement;
"**Subcontract**"	means any subcontract, purchase order or similar agreement with any Subcontractor;
"**Subcontractor**"	means any Person with whom the Concessionaire has entered into a contract or subcontract to perform services or to provide any materials, equipment, supplies or other goods to or on behalf of the Concessionaire in connection with the Project (and any other Person with whom any Subcontractor has further entered into such a contract or subcontract);
"**Tax**" or "**tax**"	means any present or future net income, alternative or add-on minimum tax, gross income, gross receipts, value added, sales, use, ad valorem, payments in lieu of taxes, franchise, capital, paid-up capital, profits, greenmail, licenses, withholding, payroll, employment, excise, severance, stamp, occupation, premium, real or personal property, environmental or windfall profit tax, customs duty or other tax, fee, duty or other like assessment or charge of any kind whatsoever (including notarization and registration fees, royalties, bonuses, rentals and other state charges) together with any interest or any penalty, addition to tax or additional amount imposed, levied or charged by any Relevant Authority, but excluding for the avoidance of doubt, Concession Fees;
"**Termination Date**"	means the date on which this Concession Agreement terminates in accordance with Section 3 (Concession Period) or, if earlier, the date on which this Concession Agreement is terminated by either Party in accordance with Section 15;
"**TEU**" or "**Twenty-foot Equivalent Unit**"	means the volume equivalent of one ISO twenty-foot container (it being understood that the volume of any non-containerized cargo otherwise permitted hereunder shall be converted from tonnage to TEUs using a generally accepted multiplier);
"**Throughput Volume**"	means the marine container throughput volume and, bulk, project cargo, breakbulk cargo tonnage at the Site associated with vessels, excluding volumes associated with military and police of the State and the United States Federal Government in connection with the performance of their statutory non-commercial functions;
"**Time of Closing**"	has the meaning given to that term in Section 4.3.3;
"**Transition Plan**"	means that plan, to be prepared by the Concessionaire and approved by the Authority prior to the Closing Date, for the transition of operational control of the Site and the Port Facilities from the Authority to the Concessionaire;
"**Undue Interference**"	means any act by a third party which has a material adverse effect on the provision of Port Services, *provided*, that "Undue Interference" does

	not include: (a) actions by Relevant Authorities or other third parties in the event of an Emergency, (b) actions by the Authority or any other Relevant Authorities to mitigate damages resulting from the Concessionaire's failure to comply with its obligations under the Project Agreements, or (c) any Vessel or other maritime traffic near the Site, *provided* that such traffic is permitted under Applicable Law;
"US CPI"	means the Consumer Price Index for all urban consumers (CPI-U), not seasonally adjusted, city average, all items and base period of 1982-1984, published by the Bureau of Labor Statistics of the United States of America Department of Labor or, if such publication is discontinued, such appropriate substitute index as may be agreed to by the Parties;
"User Fees"	has the meaning given to that term in Section 2.5.1;
"Users"	means the users of the Port Facilities or the Port Services;
"Utilities"	means infrastructure facilities and services such as water, water treatment (both incoming water and waste water), sewage, electricity, gas, waste disposal and telecommunications located or to be provided on or at the Site;
"Variable Fee"	has the meaning given to that term in Section 2.4;
"Vessel"	means every kind of water craft or other contrivance used or capable of being used as a means of transportation on water, as well as any ship, boat, barge, or other water craft or any structure capable of floating on the water; and
"Vessel Reports"	has the meaning given to that term in Section 10.5;
"Warranties"	means all warranties and warranty bonds concerning the Site and the Port Facilities with respect to the Capital Improvement Projects.

ANNEX A

RULES OF INTERPRETATION

(a) An "**amendment**" includes any modification, supplement, novation or re-enactment (and "**amended**" is to be construed accordingly);

"**assets**" includes present and future properties, revenues and rights of every description whether real, personal or mixed, and whether tangible or intangible;

an "**authorization**" includes an authorization, consent, approval, order, resolution, permit, notice, license, exemption, filing, registration and notarization;

"**control**" means, with respect to a Person, the possession, directly or indirectly, to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise (and the terms "**controlled by**" and "**under common control with**" shall have correlative meanings); and

an "**instrument**" includes any written document.

(b) A Section, Clause, Recital, Schedule, Exhibit, Part or paragraph is, subject to any contrary indication, a reference to a section, clause, recital, schedule, exhibit, part or paragraph of the agreement or document in which such reference appears.

© A reference to any Party or Person includes its successors and its permitted transferees and assigns.

(d) Unless otherwise specified, a time of day is a reference to New London, Connecticut time.

© Unless the contrary intention appears, a term defined or construed in any communication or document made or delivered under or in connection with this Concession Agreement has the same meaning when used in any other such communication or document and vice versa.

(f) Unless the context otherwise requires, reference to the singular includes a reference to the plural and vice versa and reference to the masculine includes a reference to the feminine and neuter.

(g) Unless the context otherwise requires, any reference to an agreement, document or other instrument shall be a reference to the same including all schedules, exhibits, annexes and other attachments thereto, and in each case as amended, novated, supplemented and in effect from time to time, and any reference to any Regulatory Approval or other Applicable Law includes references to the same as amended, novated, supplemented, re-enacted or applied (before or after the signature of the agreement, document or instrument in which such reference is made).

(h) Unless the contrary intention appears, the term "**including**", "**include**" or "**includes**" shall be deemed to be followed by the phrase "but not limited to", and the term "**material**" and "**materially**" shall be deemed to be followed by the phrase "in the reasonable opinion of the relevant Party".

(i) A document is in "**agreed form**" if it is in the form initialed for the purposes of identification as such by the Parties.

(j) The index to and the headings in any agreement or document are for convenience only and are to be ignored in construing such agreement or document.

(k) The annexes, schedules, appendices or exhibits attached to an agreement are an integral part of that agreement.

(l) Except as otherwise expressly provided, where the day on or by which a payment is due to be made is not a Business Day, that payment shall be made on or by the next succeeding Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not one). If the due date of such payment is extended, interest, fees and charges (if any) thereon shall continue to accrue for the period from the due date that is not a Business Day to that next succeeding Business Day.

(m) An approval by the Authority is not "**unreasonably withheld or delayed**" if such approval requires action by another Relevant Authority whose processes or procedures delay approval by the Authority.

(n) Unless specified otherwise, any approval that is required or permitted under this Concession Agreement must be in writing (unless waived in writing by the other Party), and unless otherwise provided in this Concession Agreement, such an approval shall not be unreasonably or arbitrarily withheld or conditioned.

(o) The word "discretion" with respect to any Person means the sole and absolute discretion of such Person.

ANNEX B
PORT SERVICES

This Annex B (Port Services) sets out the general obligations of the Concessionaire with respect to the administration, management, operation and maintenance of the Port Facilities during the term of this Concession Agreement. These obligations include the responsibilities of the Concessionaire for project management, scheduling, and coordinating items of work with entities such as the State, the Authority, U.S. Coast Guard, U.S. Transportation Security Administration, utility owners, and all other relevant U.S. Federal, State, municipal and local agencies.

1. GENERAL

The Concessionaire shall administer, manage, operate and maintain the Port Facilities in accordance with the terms of this Concession Agreement, including, but not limited to this Annex B, for the duration of the Concession Period. In performing these services, the Concessionaire shall comply in all respects with all applicable U.S. Federal, State, municipal and local laws and regulations, as well as all applicable international laws and conventions and generally accepted practices in the terminal industry. Unless otherwise specifically provided in this Concession Agreement, all operating and maintenance obligations shall be satisfied at the Concessionaire's cost and expense.

Concessionaire shall keep the Port Facilities and dock areas free of debris, dunnage, and general waste. At a minimum, the dock areas utilized by Concessionaire are to be swept following the departure of a cargo if dust and debris remain on the dock. The dock areas are to be maintained in a clean and safe manner at all times. All cargo stored within the Port Facilities, either within the dock areas, the general lay-down areas, or warehouses shall be stacked and maintained in a safe and orderly manner.

Concessionaire will deliver to Authority at the end of this Concession Agreement, the Port Facilities and dock area free and clear of debris and any other general waste resulting from Concessionaire's operations. Contractor shall store all materials on the docks in a manner allowing long-term tenants and/or other stevedores to operate in a safe and efficient manner within the Port Facilities.

2. TERMINAL SERVICES

2.1 Operations

The Concessionaire shall, at a minimum, offer and provide to authorized common carriers in the U.S. domestic and international trades, other non-common carrier vessels and other Port Users, on a full-time basis throughout the Concession Period (including any extensions thereof), a complete range of marine terminal and stevedoring services for the handling of containers, including the berthing, mooring, loading and unloading of vessels and their containerized cargo, the provision of fuel, supplies, ship chandler, repair, port, customs and shipping agency services, the rendering of preparation for delivery and repair services to the vessel, containers and other cargo, and their masters, crew and passengers, the marshalling, preparation and transshipment of containers in connection therewith, the operation of handling equipment, tractors and cranes, the storage of containers within the terminal until an authorized common carrier arrives at the Port Facilities to take possession of said containers and such other services related or incidental thereto as may be necessary or advisable to operate a marine container terminal at the Site in an efficient and productive manner. In performing the Port Services, the Concessionaire shall adhere to the specific coordinates defining the geographic limits of the Site.

An authorized common carrier can be a truck, rail, or vessel operator who presents the proper documentation to legally effectuate the transfer of the container from the marine terminal onto the transportation asset they are operating. Proper documentation will be an original bill-of-lading and any other documentation needed to satisfy any public authority prior to transfer. Proper documentation can

also be the industry accepted electronic equivalent and standard for container transfer authorization and execution as is appropriate throughout the life of the definitive Concession Agreement.

2.2 Rates

The Concessionaire shall provide the services specified in Section 2.1 of this Annex B (Port Services) to all members of the public, at competitive rates in accordance with the Concessionaire's stevedoring and other contracts or public terminal rates as shall be filed, to the extent required under Applicable Laws, with the appropriate regulatory agencies having jurisdiction over such rates. The Concessionaire shall provide the Authority with copies of the Concessionaire's rates and tariffs as they may be amended from time to time in accordance with Section 2.5.2 of this Concession Agreement, and shall maintain copies available at the Site for inspection by any Persons interested in using the Port and its services. Any such rates may be published to the extent necessary for the Authority to comply with Applicable Law; *provided* that the Authority shall provide the Concessionaire prior notice of any such publication.

2.3 Collection and Remittance of Other Assessments

The Concessionaire shall bill and collect, as agent and trustee for such other Relevant Authorities, and remit to such other Relevant Authorities as are entitled thereto, such other fees, duties and other charges assessed from time to time upon Port Services, Cargo, Vessels or Users by such other Relevant Authorities, in accordance with Section 2.5.3 of this Concession Agreement. The Concessionaire shall maintain throughout the Concession Period accurate books and records of all of the foregoing, and shall make such books and records available to the Authority (or such other Relevant Authorities) for audit upon request.

2.4 Equipment

Unless otherwise provided in this Concession Agreement, the Concessionaire shall, at its own expense, procure, maintain, repair, replace as necessary, and otherwise make available for provision of the Port Services, such machinery and equipment as is reasonably necessary to operate the Port Facilities and to perform the Port Services in an efficient and productive manner and in accordance with this Concession Agreement, the Port Standards and Applicable Laws. The Concessionaire shall keep any Cranes in working order for at least the expected useful life as dictated by straight-line depreciation accounting standards. When it is no longer economical to maintain and repair any such Cranes, the Concessionaire is obligated to notify the Authority and to replace this equipment with assets equal to or greater in performance specifications vis-à-vis the original equipment, unless otherwise approved in writing by the Authority.

2.5 Maintenance of Port Facilities

The Concessionaire shall maintain and repair the Port Facilities. The maintenance and repair of the Port Facilities includes maintenance and repair of the pier bulkhead, wharf, crane rail, yard, pavement, buildings, operating equipment, information systems equipment, communications equipment, security fences and structures, security equipment, lighting, Utilities, safety signage and structures as well as maintenance of the dredged water depth alongside the wharf.

2.6 Dredging/Excavation

Any dredging of the Federal channel and the harbor will be overseen by the United States Army Corps of Engineers ("**USACE**"), the United States Environmental Protection Agency ("**USEPA**"), the Authority

and/or its representatives. However, the Concessionaire will be required to accommodate, in its operations scheduling, ongoing and future excavation and construction activities undertaken by the Authority or others.

The Concessionaire shall monitor the water depth of the anchorage area, vessel turning basin, and vessel navigational channel. Whenever needed, the Concessionaire shall notify and cooperate with the Authority and the necessary agencies to perform harbor maintenance dredging in these areas to create a depth equal to or greater than the conditions as of the Closing Date. The Concessionaire and the Authority will share evenly the maintenance dredging costs, less any Federal funding subsidy that may be available, according to the United States Army Corps of Engineers stipulations or other appropriate Federal agencies' regulations existing at that time.

2.7 Navigation Aids and Systems

The Concessionaire will assist in the navigation planning and design in consultation with the Authority, including but not limited to, channel signage, buoys, lighted and unlighted beacons, ranges, and leading lights. The Concessionaire shall provide and maintain the anchorage areas, turning basin and navigation channel signage and buoys. Navigational aids and anchorage facilities as necessary shall be furnished, installed and maintained by the Concessionaire in accordance with the United States Coast Guard guidelines and requirements.

2.8 Traffic Services

The Concessionaire will be responsible for the scheduling of vessel berthing at the Port Facilities. The Concessionaire will coordinate with the United States Coast Guard, the Pilots' Associations, water firefighting, medical and health services, and United States Customs agencies, as well as any other Relevant Authority to expedite and maintain the orderly flow of Vessel traffic to prevent collisions between Vessels or obstacles in the water.

The Concessionaire shall employ personnel and purchase necessary assets and provide such necessary maritime traffic information services, traffic advisory services and traffic control services as is necessary to effectively manage bulk, container, and any other Vessel traffic regardless of whether the Concessionaire is managing the land facilities these vessels are calling.

2.9 Medical Rescue and Response

The Concessionaire shall provide medical rescue and response services for the terminal facility.

2.10 Fire

The Concessionaire shall provide fire rescue and response services for the terminal facility.

2.11 Security and Customs

The Concessionaire shall abide by, and manage, administer, operate and maintain the Site in accordance with, all requirements of the Homeland Security Act, the Maritime Transportation Security Act, and all other applicable U.S. Federal, State, local and municipal laws and regulations relating to security, public health and safety and the protection of the environment, all applicable international conventions and agreements and any other generally accepted practices in the industry throughout the Concession Period. In particular, but without limiting the generality of the foregoing, the Concessionaire shall:

(a) manage, administer, operate and maintain the Port Facilities in accordance with the security requirements of the Maritime Transportation Security Act ("**MTSA**") of 2002, Public Law 107-295, all subsequent revisions to the MTSA from time to time, including: the Security Regulations as promulgated by the U.S. Department of Homeland Security thereunder from time to time; Navigation and Inspection Circular ("**NVIC**") No. 11-02 and 33 CFR Part 105 issued by the United States Coast Guard, all other applicable Coast Guard issued NVICs; and the security measures as set forth in the International Convention for the Safety of Life at Sea ("**SOLAS**") by the International Maritime Organization; and any other laws, regulations, and practices that become necessary or are adopted by the terminal operations industry from time to time.

(b) coordinate efforts and share information as required with Department of Homeland Security, the United States Coast Guard, Customs, and any other agency working in conjunction with these public agencies for the purpose of protection against terrorism;

(c) employ security personnel and will invest in security systems for the purpose of protection against terrorism; and

(d) comply with the relevant requirements of Part A of the International Ship and Port Facility Security (ISPS) Code; the requirements of the 24-hour Advance Vessel Manifest Rule, promulgated by the U.S. Customs and Border Protection under the Trade Act of 2002; and the standards recommended or required by the Customs Trade Partnership Against Terrorism (C-TPAT) as they apply to U.S. marine ports/terminal operators, in each case as amended and in effect from time to time.

2.12 Theft Prevention

The Concessionaire shall coordinate efforts and share information as required with any Federal, State, municipal or local law enforcement, and any other agency working in conjunction with these public agencies regarding crime prevention. The Concessionaire shall employ security personnel and shall invest in security systems for the purpose of protection against theft of customers' goods, terminal assets, and other crime.

2.13 Interdiction

The Concessionaire shall provide information, terminal resources and personnel necessary to enable Customs to perform their interdiction duties.

2.14 Immigration

The Concessionaire shall provide information, terminal resources and personnel necessary to enable Customs to perform their immigration duties.

2.15 Utilities

The Concessionaire shall procure and pay for all Utilities, including without limitation, all water, gas, heat, electricity, fuel, power, telephone and telecommunications service, and other utilities, as well as janitor or watchman services and mechanical fire alarm or security services, which may be needed or used in connection with the provision of Port Services and otherwise in the performance of its obligations under this Concession Agreement.

2.16 Transition of the Port Facilities

The Concessionaire shall perform final inspection and acceptance testing prior to occupancy as part of the Transition Plan. All required certifications must be obtained before operations commence.

Inspection by the Authority or its consultants does not relieve the Concessionaire from responsibility for any of its responsibilities under this Concession Agreement or for violation(s) of applicable codes, laws, rules, ordinances or regulations.

2.17 Transfer Obligations at Completion of Concession Period

Upon completion of Concession Period, control, management, and the operation of the Port Facilities operated by the Concessionaire will be transferred to the Authority or its designee. The Port Facilities must be transferred in good working order capable of handling the maximum capacity of cargo determined attainable (not considering equipment or gate factors), reasonable wear and tear excepted, upon the completion of the Concession Period. That is, the pier bulkhead, wharf, crane rail, yard, pavement, buildings, security fences and structures, lighting, Utilities, safety signage and structures as well as the dredged water depth alongside the pier must be suitable for continued safe and efficient marine terminal operations.

Equipment equivalent to the first set of equipment financed by the Authority must be transferred in good working order. This equipment must be capable of handling the maximum capacity of cargo determined attainable by the manufacturer for the type of equipment. The operating equipment, information systems equipment, communications equipment, and security equipment must be suitable for continued safe and efficient marine terminal operations.

3. ENVIRONMENTAL COMPLIANCE

3.1 Mitigation Measures

As part of the undertaking of work by the Concessionaire pursuant to this Concession Agreement, the State will require appropriate mitigation of unavoidable impacts to waters of the United States and other environmental impacts. The Concessionaire will be responsible for coordinating with the Authority and USACE regarding the mitigation plans for these impacts and compliance with any technical and administrative obligations set forth by the USACE and USEPA as part of the permits for the proposed fill of wetlands. To the extent that mitigations are required due to ongoing operations or maintenance activities, the Concessionaire shall be responsible for performance and documentation of the relevant mitigation.

3.2 Waste Disposal

Disposal of non-hazardous materials shall be performed in accordance with Applicable Law. Non-hazardous solid waste may be generated during the construction period, particularly debris, wood and cardboard scraps. Also, domestic debris may be generated by the construction and administrative personnel at the site. In order to ensure compliance with the applicable laws and regulations, the Concessionaire shall report to the Authority any questionable activities while supervising construction.

3.3 Discharge Management

Activities (including but not limited to land-disturbing activities) that disturb one acre or more are regulated under the United States Environmental Protection Agency ("**USEPA**") National Pollutant Discharge Elimination System ("**NPDES**") storm water program. The Concessionaire shall report to the Authority any such regulated activities to be undertaken during the Concession Period, and shall carry out all measures required under applicable laws.

3.4 Hazardous Materials

Generation of Hazardous Materials is not anticipated as part of the Project operations. However, should these materials be generated at or become introduced at the Site, the Concessionaire shall report to the Authority any evidence of these materials, and the Concessionaire shall be required to remove these materials as required under applicable laws.

3.5 Spill Prevention

A Spill Prevention Control and Countermeasures Plan ("**SPCCP**") shall be designed and implemented by the Concessionaire at the Project site to avoid improper handling of oil products that would potentially impact ground water resources and pursuant to Title 40 of the Code of Federal Regulations ("**CFR**"), Part 112 (Oil Pollution Prevention). The SPCCP is designed to help prevent the discharge of oil. The SPCCP should contain a spill contingency plan, addressing responsibilities and procedures for containing and cleaning up spills. The Concessionaire shall report to the Authority any spillage or precarious activities, and shall carry out all measures required under the SPCCP.

3.6 Visual Aesthetics

The Concessionaire shall not erect or display, or permit to be erected or displayed, on or at the Site, or upon the Port Facilities, any signs, placards or advertising matter of any kind, without first obtaining the prior written consent of the Authority, which consent shall not be unreasonably withheld or delayed. The Concessionaire shall post, erect and maintain at the Site or upon the Port Facilities such signs and other notices as the Authority may reasonably direct.

4. MANAGEMENT AND ADMINISTRATION

4.1 Community Relations

The Concessionaire shall participate in community relations activities. The Concessionaire is to undertake best efforts to minimize the disturbances and inconveniences to the adjacent communities and the neighboring businesses that can result from a major marine terminal's operation. The Concessionaire shall use best efforts to utilize community friendly lighting and power equipment, as well as community friendly business scheduling. The Concessionaire shall attend public meetings relating to the terminal and to address any community issues arising from the operation of this marine facility. The Concessionaire shall cooperate with the Authority with its community relations activities as well.

4.2 Marketing

The Concessionaire shall use its best efforts to market the Port and the services provided by the Concessionaire at the Port Facilities to all potential Users of the Port. The Concessionaire shall perform marketing activities and will assist the Authority in its own marketing endeavors. Operating statistics,

summaries of efforts undertaken and performance measures shall be furnished by the Concessionaire to the Authority upon request.

4.3 Administrative Services

The Concessionaire shall hold periodic meetings with the staff members of the Authority (not less frequently than monthly) to review the status of the Concessionaire's business with the Authority. The Concessionaire shall attend all meetings of the board of directors of the Authority. The Concessionaire shall provide the Authority, Relevant Authorities and any auditors or inspectors appointed by them with access to the Port and the Port Facilities and to the Concessionaire's books records so that the Authority or such Relevant Authorities can have audits and inspections performed. The Concessionaire shall assist the Authority with communications prepared for the public and the State whenever requested. If other administrative services become necessary, the Concessionaire shall cooperate with the Authority, other public agencies, or their representatives, to assist them in attaining their goals.

4.4 Supervisory and Operating Personnel

The Concessionaire shall, at its sole expense, contract and hire such executive, managerial, supervisory and operating personnel as may be necessary to operate the Port and the Port Facilities and to perform the Port Services in an efficient and productive manner, in accordance with this Concession Agreement, the Port Standards and Applicable Laws.

4.5 Quality Assurance

The Concessionaire shall develop and periodically update (as necessary), and at all times during the Concession Period implement and comply with, a Quality Management Plan ("**QMP**"), including operations, maintenance, testing, and mitigation compliance, approved by the Authority. The QMP shall be submitted to the Authority within sixty (60) days following the Closing Date.

The QMP shall ensure that the administration, management, operations and maintenance of the Port Facilities, the materials and equipment used in the provision of Port Services and their repair and maintenance, and all other Port Services, are adequate and of high quality and will comply with the requirements of this Concession Agreement, the Port Standards and Applicable Laws. The QMP shall describe the Concessionaire's quality control ("**QC**") / quality assurance ("**QA**") organization, including the number of full-time equivalent employees with specific QC/QA responsibilities, including a chart showing lines of authority and reporting responsibilities. The persons and organizations performing QC/QA functions shall have sufficient authority and organization freedom to identify quality problems and to initiate, recommend, provide, and verify implementation of solutions and shall report to the Concessionaire's QA Manager.

The Authority shall have the right to conduct inspection oversight and sampling, testing, and evaluation, as well as conduct QA reviews of the Concessionaire's obligations. The Authority shall have the right to check testing equipment for compliance with specified standards and to check testing procedures and techniques. The Authority also reserves the right to access the testing facilities of the independent testing agencies, at no additional cost to the Authority, to witness the testing and verify compliance of the testing procedures, testing techniques, and test results.

5. OTHER SERVICES

With the approval of the Authority, which approval shall not be unreasonably withheld or delayed, the Concessionaire may provide other services beyond the activities described elsewhere in this Annex B (Port Services) to the public as long as such services do not compete with the Authority. All services being performed by the Concessionaire need to be described in writing and approved by the Authority prior to implementation.

6. COMPLIANCE

The Concessionaire shall administer, manage, operate and maintain and repair the Port Facilities (including yard, wharves, gates, buildings, equipment, etc.), anchorage areas, turning basin and the vessel navigation channel in accordance with all U.S. Federal, State, municipal and local laws and regulations, including without limitation environmental, water traffic, and safety regulations. The Concessionaire shall also assist the Relevant Authorities in ensuring trucker compliance to roadway safety regulations by notifying truckers of any known failure of compliance upon the implementation of the interchange inspection at the terminal interchange gate. The Concessionaire shall ensure vessel operator compliance with the Authority berthing procedures and regulations as well.

7. COORDINATION

The Concessionaire shall operate responsibly and shall abide by all Federal, State, municipal and local authorities' emergency response regulations. Terminal personnel evacuation procedures will be reviewed and approved by the Authority. The Concessionaire shall notify all pertinent authorities of any extraordinary events that raise suspicion and concern for the wellbeing of terminal personnel, the community population, terminal assets or community personal and real property.

Concessionaire shall identify and familiarize itself with any Adjacent Work, whether by the Authority or others, which may affect Port Services, and, in the case of adjacent work by others, shall immediately notify the Authority whenever it becomes aware of such work. "**Adjacent Work**" means any project or activity, public or private, being planned, designed, constructed, or conducted, whether by the Authority or others, which could affect or conflict with the Port or is on, adjacent to or near the Port or the Site. The Concessionaire shall be responsible for obtaining and reviewing plans, maps, and reports for Adjacent Work, monitoring Adjacent Work, providing written assessment of any potential impacts from the Adjacent Work and coordinating with the Adjacent Work as necessary.

For any Adjacent Work being conducted by the Authority or otherwise identified by the Authority to the Concessionaire, the Concessionaire shall identify and examine features of such work as necessary. Any inconsistencies or conflicts between such Adjacent Work and the terminal operation or Port Services shall be brought to the attention of the Authority by the Concessionaire.

8. GENERAL INFORMATION RE: VESSELS AND CARGOES.

Concessionaire shall provide Authority, in a timely manner and as requested by Authority, with copies of all documentation and information relating to time in berth for vessels and barges, tonnages loaded and off-loaded and other information necessary to properly invoice for such charges. Authority shall have the right to audit information supplied regarding the supplied information.

ANNEX C
MINIMUM ANNUAL GUARANTEE EXAMPLES

This Annex C (Minimum Annual Guarantee Examples) sets out, for illustrative purposes, various examples of the calculation of Minimum Annual Guarantee as defined in this Concession Agreement.

Compound Annual Growth Rates to be applied to the MAG

CAGR = (EV/BV)^(1/5)-1

Years 1-5

MAG: 500

The MAG can only go "up" after Years 1-5

Scenario 1

Years 1-5	Revenue
2019	498
2020	803
2021	954
2022	1,154
2023	1,246
CAGR	***20.1%***
New MAG	601

Scenario 2

MAG: 500

Years 1-5	Revenue
2019	498
2020	600
2021	675
2022	850
2023	988
CAGR	***14.7%***
New MAG	573

Years 6-10

The MAG can go either "up" or "down" after Years 6-10

Scenario 1

MAG: 601

Years 6-10	Revenue
2024	1,325
2025	1,396
2026	1,461
2027	1,529
2028	1,601
CAGR	***3.9%***
New MAG	624

Scenario 2

MAG: 573

Years 6-10	Revenue
2024	1,325
2025	1,396
2026	1,200
2027	1,100
2028	1,150
CAGR	***-2.8%***
New MAG	557

Years 11-15

The MAG can go either "up" or "down" after years 11-15

Scenario 1

MAG: 624

Years 11-15	Revenue
2029	1,676
2030	1,755
2031	1,843
2032	1,935
2033	2,032
CAGR	***3.9%***
New MAG	649

Scenario 2

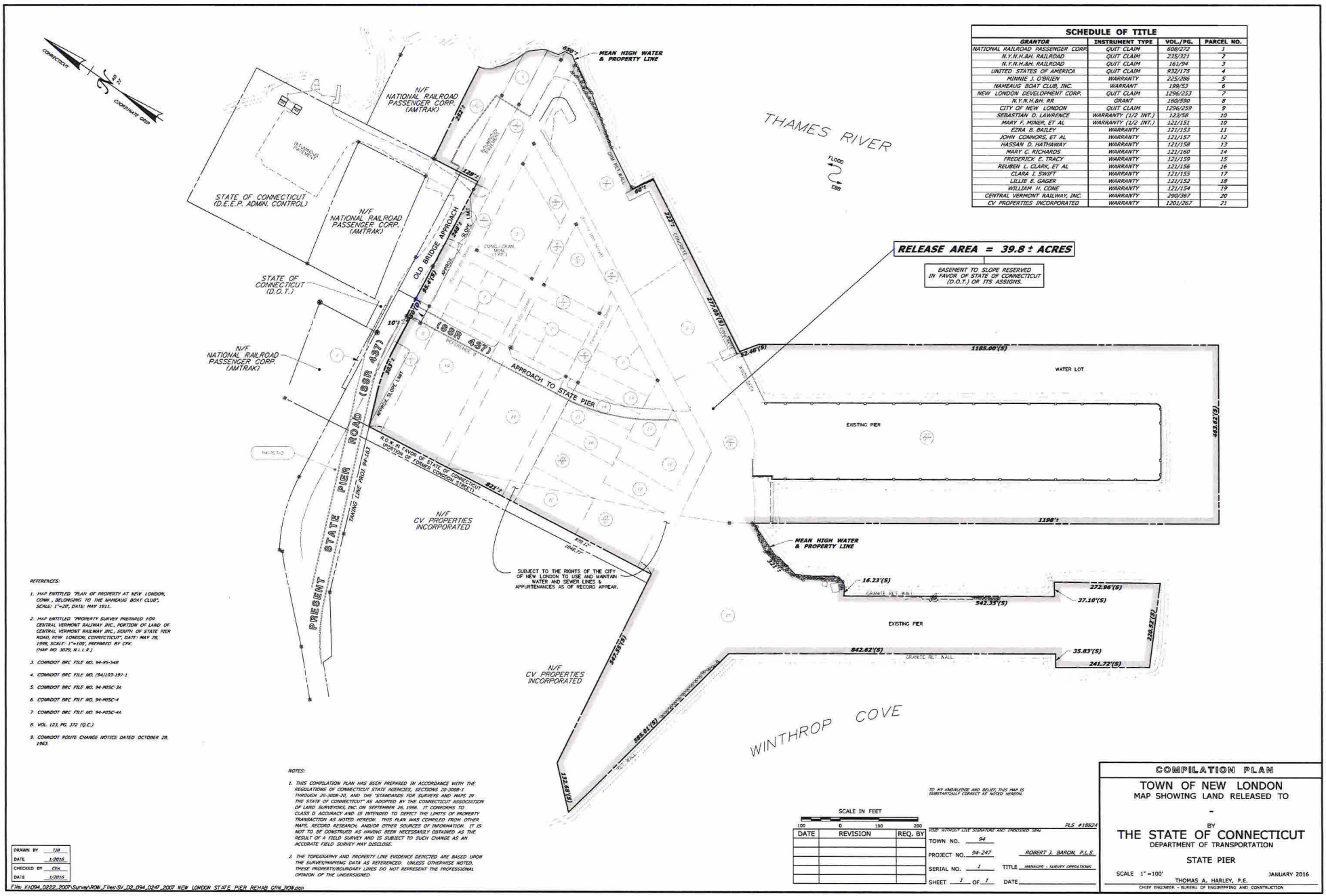
MAG: 557

Years 11-15	Revenue
2029	1,250
2030	1,100
2031	1,300
2032	1,300
2033	1,200
CAGR	***-0.8%***
New MAG	552

Schedule 1

THE SITE

Attached hereto is a map depicting the Site. A narrative legal description of the Site follows the map.



SCHEDULE OF TITLE

GRANTOR	INSTRUMENT TYPE	VOL./PG.	PARCEL NO.
NATIONAL RAILROAD PASSENGER CORP.	QUIT CLAIM	606/272	1
N.Y.N.H.&H. RAILROAD	QUIT CLAIM	235/321	2
N.Y.N.H.&H. RAILROAD	QUIT CLAIM	161/94	3
UNITED STATES OF AMERICA	QUIT CLAIM	932/175	4
MINNIE J. O'BRIEN	WARRANTY	225/286	5
NAMEAUG BOAT CLUB, INC.	WARRANT	198/53	6
NEW LONDON DEVELOPMENT CORP.	QUIT CLAIM	1296/253	7
N.Y.N.H.&H. RR	GRANT	160/590	8
CITY OF NEW LONDON	QUIT CLAIM	1296/259	9
SEBASTIAN D. LAWRENCE	WARRANTY (1/2 INT.)	123/58	10
MARY F. MINER, ET AL	WARRANTY (1/2 INT.)	121/151	10
EZRA B. BAILEY	WARRANTY	121/153	11
JOHN CONNORS, ET AL	WARRANTY	121/157	12
HASSAN D. HATHAWAY	WARRANTY	121/158	13
MARY C. RICHARDS	WARRANTY	121/160	14
FREDERICK E. TRACY	WARRANTY	121/159	15
REUBEN L. CLARK, ET AL	WARRANTY	121/156	16
CLARA I. SWIFT	WARRANTY	121/155	17
LILLIE E. GAGER	WARRANTY	121/152	18
WILLIAM H. CONE	WARRANTY	121/154	19
CENTRAL VERMONT RAILWAY, INC.	WARRANTY	290/367	20
CV PROPERTIES INCORPORATED	WARRANTY	1201/267	21

REFERENCES:

1. MAP ENTITLED "PLAN OF PROPERTY AT NEW LONDON, CONN., BELONGING TO THE NAMEAUG BOAT CLUB", SCALE: 1"=20', DATE: MAY 1911.
2. MAP ENTITLED "PROPERTY SURVEY PREPARED FOR CENTRAL VERMONT RAILWAY INC., PORTION OF LAND OF CENTRAL VERMONT RAILWAY INC., SOUTH OF STATE PIER ROAD, NEW LONDON, CONNECTICUT", DATE: MAY 29, 1998, SCALE: 1"=100', PREPARED BY CTM. (MAP NO. 3029, N.L.L.R.)
3. CONNDOT BRC FILE NO. 94-95-54B
4. CONNDOT BRC FILE NO. (94)103-197-1
5. CONNDOT BRC FILE NO. 94-MISC-3A
6. CONNDOT BRC FILE NO. 94-MISC-4
7. CONNDOT BRC FILE NO. 94-MISC-4A
8. VOL. 123, PG. 372 (Q.C.)
9. CONNDOT ROUTE CHANGE NOTICE DATED OCTOBER 28, 1963.

NOTES:

1. THIS COMPILATION PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE REGULATIONS OF CONNECTICUT STATE AGENCIES, SECTIONS 20-300B-1 THROUGH 20-300B-20, AND THE "STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. ON SEPTEMBER 26, 1996. IT CONFORMS TO CLASS D ACCURACY AND IS INTENDED TO DEPICT THE LIMITS OF PROPERTY TRANSACTION AS NOTED HEREON. THIS PLAN WAS COMPILED FROM OTHER MAPS, RECORD RESEARCH, AND/OR OTHER SOURCES OF INFORMATION. IT IS NOT TO BE CONSTRUED AS HAVING BEEN NECESSARILY OBTAINED AS THE RESULT OF A FIELD SURVEY AND IS SUBJECT TO SUCH CHANGE AS AN ACCURATE FIELD SURVEY MAY DISCLOSE.
2. THE TOPOGRAPHY AND PROPERTY LINE EVIDENCE DEPICTED ARE BASED UPON THE SURVEY/MAPPING DATA AS REFERENCED. UNLESS OTHERWISE NOTED, THESE PROPERTY/BOUNDARY LINES DO NOT REPRESENT THE PROFESSIONAL OPINION OF THE UNDERSIGNED.

DRAWN BY	TJB
DATE	1/2016
CHECKED BY	CTM
DATE	1/2016

SCALE IN FEET

100 0 100 200

DATE	REVISION	REQ. BY

TO MY KNOWLEDGE AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.

PLS #18824

VOID WITHOUT LIVE SIGNATURE AND EMBOSSED SEAL

TOWN NO. 94

PROJECT NO. 94-247 ROBERT J. BARON, P.L.S.

SERIAL NO. 1 TITLE MANAGER - SURVEY OPERATIONS

SHEET 1 OF 1 DATE

COMPILATION PLAN

TOWN OF NEW LONDON

MAP SHOWING LAND RELEASED TO

-

BY

THE STATE OF CONNECTICUT

DEPARTMENT OF TRANSPORTATION

STATE PIER

SCALE 1" =100' JANUARY 2016

THOMAS A. HARLEY, P.E.

CHIEF ENGINEER - BUREAU OF ENGINEERING AND CONSTRUCTION

File: K:\094_0222_2007\Survey\ROW_Files\SV_02_094_0247_2007 NEW LONDON STATE PIER REHAB GRN_ROW.dgn

New London State Pier

Parcel A

A certain parcel of land, beginning at a point on the northwesterly boundary of land owned by the United States of America and having Connecticut Cartesian coordinate values of north 193,095.994, east 780, 717.070;

Thence proceeding north Thence proceeding north 83° 24'06" east for a distance of 177.32 feet to a point;

Thence proceeding south 27^2 42'54" west for a distance of 194.81 feet to a point;

Thence proceeding south 83° 24'06" west for a distance of 64.69 feet to a point;

Thence proceeding north 7° 35'54" west for a distance of 160.93 feet to the point and place of beginning.

Parcel B

A certain parcel of land beginning at a point on the northwesterly boundary of land owned by the United States of America and having Connecticut Cartesian coordinate values of north 193,308.035, east 780,943.143;

Thence proceeding north 83°27'03" east for a distance of 60.00 feet to a point;

Thence proceeding south 27°42' 54" west for a distance of 193.16 feet to a point;

Thence proceeding south 83°24' 06" west for a distance of 45.00 feet to a point;

Thence proceeding north 23°52'10" east for a distance of 185.17 feet to the point of the beginning.

Parcel C

A certain parcel of land beginning at a point on the northwesterly boundary of land owned by the United States of America and having Connecticut Cartesian coordinate values of north 193,320.399, east 781,050.835;

Thence proceeding north 83°27'03" east for a distance of 140.00 feet to a point;

Thence proceeding southwesterly along the mean high water mark of the Thames River or the existing quay wall to a point;

Thence proceeding north 68°16'55" west for a distance of 175.00 feet to a point;

Thence proceeding north 27°43'05" east for a distance of 490.08 feet to the point and place of beginning.

All as more particularly shown on a map marked "Exhibit B", and entitled "TOWN OF NEW LONDON, MAP SHOWING LAND ACQUIRED FROM THE UNITED STATES OF AMERICA BY THE STATE OF CONNECTICUT AT THE STATE PIER, dated December 1991, signed by 0. Paquette, Chief of Surveys, dated January 16, 1992".

Further, the Grantor herein releases, remises and forever quitclaims all its right title and interest in and to the land leased by the Grantor from the State of Connecticut and the improvements and appurtenances

thereto under lease number N62472-81-00386, dated December 5, 1951, as amended and more particularly described as follows:

> The leased areas with the improvements and appurtenances thereon, known as State Pier, New London Connecticut, together with certain additional areas, to be used in conjunction therewith, all as delineated on a map entitled "NAVAL SUBMARINE BASE NEW LONDON GROTON, CONN. STATE PIER LEASED AREAS, F80091, 6/26/85", all as more particularly shown on a map marked "Exhibit C".

Central Vermont Railroad Pier

A certain tract or parcel of land located Southerly of 10th Street in the City of New London, County of New London, State of Connecticut, being bounded and described as follows:

Beginning at a point on the face of the sea wall at Winthrop Cove, said point being located at the Westerly corner of the herein described tract and on the dividing line between the herein described tract and other land of the Central Vermont Railway, Inc. and thence running North 42° 26' 04" East 132.68 feet to a point; thence North 81° 34' 16" East 522.49 feet to a concrete monument; thence continuing North 81° 34' 16" East 25.06 feet to a point at the Southwesterly corner of land now or formerly of the State of Connecticut, the last three lines abutting Northwesterly and Northerly on said other land of the Central Vermont Railway, Inc.; thence North 81° 30' 19" East 168.71 feet to a point; thence South 26° 20' 02" East 129.19 feet to a point; thence South 34° 43' 24" East 54.33 feet to a CHD Disk.; thence continuing South 34° 43' 24" East 8 feet more or less to the shore of Winthrop Cove, the last four lines abutting Northerly and Northeasterly on said land now or formerly of the State of Connecticut; thence in a general Southerly direction along the high water mark of said Cove 321 feet, more or less to a point on the face of the sea wall; thence South 60° 06' 44" West 16.23 feet to a point; thence South 34° 49' 41" East 542.35 feet to a point; thence North 54° 19' 45" East 37.10 feet to a point; thence South 34° 11' 42" East 272.96 feet to a point; thence South 62° 24' 09" West 220.52 feet a point; thence North 35° 01' 11" West 241.72 feet to a point; thence North 54° 58' 49" East 35.83 feet to a point; thence North 34° 55' 11" West 842.62 feet to a point; thence North 79° 48' 16" West 585.01 feet to the point of beginning, the last nine lines running along the face of the sea wall abutting said Cove.

Containing 8.36 acres, more or less

Together with a 30 foot wide easement recorded in Volume 290, page 382 and as shown on the hereinafter referred to map.

Being shown on "Property Survey prepared for Central Vermont Railway, Inc. portion of land of Central Vermont Railway, Inc. South of State Pier Road, New London, Connecticut. Chandler, Palmer & King, Architecture, Engineers and Surveying, 110 Broadway, Norwich, CT 06360 (860) 889-3397 fax (860) 886-7801

Scale 1" = 100' May 28, 1998 Sheet 1 of 1"

Schedule 2

USER FEES

1. Stevedoring
2. Shorehandling
3. Storage
4. Dockage
5. Wharfage
6. Gate Services

Schedule 3

PROPERTY TO BE TRANSFERRED TO THE CONCESSIONAIRE

None

Schedule 4

EXISTING CONTRACTS

None

Schedule 5

INITIAL PORT OPERATIONS MANUAL

[*To be inserted upon the Closing Date, when agreed by the Concessionaire and the Authority.*]

Annex D

Connecticut Port Authority
Procurement and Contracting Requirements

Section 1.1 Non-Discrimination. Concessionaire in accordance with Applicable Law agrees and warrants that in the performance of the services, Concessionaire will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, sexual orientation, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Concessionaire that such disability prevents performance of the services involved, in any manner prohibited by Applicable Law. Concessionaire further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, sexual orientation, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by Concessionaire that such disability prevents performance of the services involved;

(a) Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Connecticut Commission on Human Rights and Opportunities (the "CHRO");

(b) Concessionaire agrees to provide each labor union or representative of workers with which Concessionaire has a collective bargaining agreement or other contract or understanding and each vendor with which Concessionaire has a contract or understanding, a notice to be provided by the CHRO, advising the labor union or workers' representative of Concessionaire's commitments under Sections 4a-60 and 4a-60a of the Connecticut General Statutes as amended from time to time (the "Connecticut General Statutes") and to post copies of the notice in conspicuous places available to employees and applicants for employment;

(c) Concessionaire agrees to comply with each provision of Sections 4a-60, 4a-60a, 46a-68e, and 46a-68f, inclusive, of the Connecticut General Statutes and with each regulation or relevant order issued by the CHRO pursuant to Sections 46a-56, 46a-68e, and 46a-68f of the Connecticut General Statutes; and

(d) Concessionaire agrees to provide the CHRO with such information requested by the CHRO, and permit access to pertinent books, records and accounts concerning the employment practices and procedures of Concessionaire as they relate to the provisions of Sections 4a-60, 4a-60a and 46a-56 of the Connecticut General Statutes.

Section 1.2 Set-aside Programs. Concessionaire and Authority shall comply with any applicable set-aside small contractors and minority business enterprise requirements set forth in Section 4a-60g of the Connecticut General Statutes.

Section 1.3 Prevailing Wages. Concessionaire shall comply with prevailing wages laws for all labor engaged in connection with the services, pursuant to C.G.S. Sec. 31-53 and 31-53a, as applicable, for contracts for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project where the total cost of all work to be performed by all contractors and subcontractors in connection with new construction of a public works project is more than one million ($1,000,000) dollars and the remodeling,

refinishing, refurbishing, rehabilitation, alteration or repair of any public works project under one hundred thousand ($100,000) dollars.

(a) If Prevailing Wage Rates are required, wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Concessionaire who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

Section 1.4 Occupational Safety and Health Act Compliance. Concessionaire certifies, pursuant to C.G.S. Sec. 31-57b, that Concessionaire has not: (1) been cited for three or more willful or serious violations of any occupational safety and health act or of any standard, order or regulation promulgated pursuant to such act, during the three-year period preceding the date of RFP, provided such violations were cited in accordance with the provisions of any state occupational safety and health act or the Occupational Safety and Health Act of 1970, and not abated within the time fixed by the citation and such citation has not been set aside following appeal to the appropriate agency or court having jurisdiction; or (2) received one or more criminal convictions related to the injury or death of any employee in the three-year period preceding the RFP.

Section 1.5 Whistleblower Protection. If any officer, employee or appointing authority of Concessionaire takes or threatens to take any personnel action against any employee of Concessionaire in retaliation for such employee's disclosure of information to the Auditors of Public Accounts or the Attorney General under the provisions of Connecticut General Statutes Section 4-61dd, Concessionaire shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and direct offense. Concessionaire shall post a notice in a conspicuous place which is readily available for viewing by employees of the provisions of Connecticut General Statutes Section 4-61dd relating to large state contractors.

Section 1.6 Campaign Contribution And Solicitation Prohibitions. For all State of Connecticut contracts as defined in Section 9-612 of the Connecticut General Statutes having a value in a calendar year of $50,000 or more or a combination or series of such agreements or contracts having a value of $100,000 or more, the authorized signatory to this Concession Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice, SEEC Form 10 in Exhibit A, advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice.

Section 1.7 Affidavit of Third Party Fees. At the time Concessionaire submitted its bid or proposal to the Authority, it simultaneously, if applicable, executed a document entitled Affidavit Of Third Party Fees and said document is attached hereto and made a part of this Agreement as Exhibit B.

Section 1.8 Affidavit Concerning Nondiscrimination. At the time Concessionaire submitted its bid or proposal to the Authority, it simultaneously, if applicable, executed a

document entitled Affidavit Concerning Nondiscrimination and said document is attached hereto and made a part of this Agreement as Exhibit C.

Section 1.9 Affidavit Concerning Consulting Fees. At the time of Concessionaire's execution of this Agreement, Concessionaire simultaneously, if applicable, executed a document entitled Affidavit Concerning Consulting Fees and said document is attached hereto and made a part of this Agreement as Exhibit D.

Section 1.10 Concessionaire's Certification Concerning Gifts. At the time of Concessionaire's execution of this Agreement, Concessionaire simultaneously, if applicable, executed a document entitled Concessionaire's Certification Concerning Gifts and said document is attached hereto and made a part of this Agreement as Exhibit E.

Section 1.11 Executive Director's Certification Concerning Gifts. At the time of the Executive Director's execution of this Agreement, the Executive Director simultaneously, if applicable, executed a document entitled Executive Director's Certification Concerning Gifts and said document is attached hereto and made a part of this Agreement as Exhibit F.

Section 1.12 Iran Certification Form. At the time Concessionaire submitted its bid or proposal to the Authority, it simultaneously, if applicable, executed a document entitled Iran Certification Form and said document is attached hereto and made a part of this Agreement as Exhibit H.

Section 1.13 State Ethics Laws Summary. At the time Concessionaire submitted its bid or proposal to the Authority, it simultaneously, if applicable, executed a document entitled Affirmation of Receipt of State Ethics Laws Summary and said document is attached hereto and made a part of this Agreement as Exhibit I.

EXHIBIT A

(SEEC Form 10 attached)



Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

Acknowledgement of Receipt of Explanation of Prohibitions for Incorporation in Contracting and Bidding Documents

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined on the reverse side of this page).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor,* with regard to a *state contract or state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall knowingly *solicit* contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor or principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—Up to $2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to $2,000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than $5,000 in fines, or both.

CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may resulting the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

SEEC FORM 10

CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION
Rev. 1/11
Page 1 of 3

Form 10

DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law involving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty-first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.

ACKNOWLEDGEMENT OF RECEIPT

SIGNATURE

08/24/2018
DATE (mm/dd/yyyy)

NAME OF SIGNER

First Name	MI	Last Name	Suffix
Matthew		Satnick	

TITLE

Authorized Representative

COMPANY NAME

Enstructure New Haven Holdings LLC dba Gateway Terminal

Additional information may be found on the website of the State Elections Enforcement Commission,
www.ct.gov/seec
Click on the link to "Lobbyist/Contractor Limitations"

EXHIBIT B

AFFIDAVIT OF THIRD PARTY FEES

(See form attached)

Connecticut PORT AUTHORITY

AFFIDAVIT OF THIRD PARTY FEES

This Affidavit must be completed and properly executed by an individual or business entity submitting a bid/proposal/statement of qualifications to the Connecticut Port Authority (such individual or business entity hereinafter in this form referred to as the "Contactor"). The purpose of this Affidavit is to ascertain if the Contractor has made or promised any payment to a third party attributable to this Agreement. If no such payment has been made or promised, Contractor should write "None" in the first box in the table and execute this Affidavit. For purposes of the Affidavit, Contractor's subcontractors, if any, are not considered third parties.

I, Matthew Satnick, a duly authorized officer and/or representative of Enstructure New Haven Holdings LLC dba Gateway Terminal (firm name) (the "Contractor"), being duly sworn, hereby depose and say that:

1. I am over eighteen (18) years of age and believe in the obligations of an oath;
2. The Contractor seeks to enter into the "SERVICE AGREEMENT" (the "Agreement") with the Connecticut Port Authority; and
3. All third party fees and agreements to pay third party fees attributable to the Agreement are as follows:

Name Of Payee	Dollar Amount Paid Or Value Of Non-Cash Compensation AND Date	Fee Arrangement	Specific Services Performed Or To Be Performed By Payee[1]
None			

(Attach additional copies of this page as necessary.)

***NOTE:** For each third party fee arrangement described above (if any), complete the attached Form.*

4. The information set forth herein is true, complete and accurate to the best of my knowledge and belief under penalty of perjury.

Signed: _____

Name (Print): Matthew Satnick

Title: Authorized Representative

Sworn to before me this 24th day of August 20 18

Notary Public/Commissioner of the Superior Court Commission Expiration Date

Mary W. Cacace

[1] Please attach documents evidencing the terms of the fee arrangement and services.

Mary W. Cacace
NOTARY PUBLIC
State of Connecticut
My Commission Expires October 31, 2022

Connecticut PORT AUTHORITY

ADDENDUM TO AFFIDAVIT OF THIRD PARTY FEES

For each third party fee arrangement disclosed in the attached Affidavit, please explain whether and how each such payment falls within one or more of the following categories of compensation:

Compensation earned for the rendering of planning services when engaged in the ongoing business of providing planning services;

Compensation earned for the rendering of investment services when provided by an investment professional while engaged in the ongoing business of providing investment services;

Compensation for placement agent, due diligence or comparable tangible marketing services when paid to a person who is an investment professional (i) engaged in the ongoing business of representing providers of investment services, or (ii) in connection with the issuance of bonds, notes or other evidence of indebtedness by a public agency;

Compensation earned by a licensed real estate broker or real estate salesperson while engaging in the real estate business on an ongoing basis; or

Payments for client solicitation activities meeting the requirements of Rule 206(4)-3 under the Investment Advisers Act of 1940.

Attach additional pages as necessary.

MS

EXHIBIT C

AFFIDAVIT CONCERNING NONDISCRIMINATION

(See form attached)

(See also OPM Forms C, D, & E)

(See also Exhibit G - CHRO Notification to Bidders)

Connecticut PORT AUTHORITY

AFFIDAVIT CONCERNING NONDISCRIMINATION

This Affidavit must be completed and properly executed under penalty of false statement by a chief executive officer, president, chairperson, member or other corporate officer duly authorized to adopt company, corporate or partnership policy of the business entity submitting a bid/proposal/statement of qualifications to the Connecticut Port Authority that certifies such business entity complies with the nondiscrimination agreement and warranties contained in Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended, regarding nondiscrimination against persons on account of their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability, physical disability or sexual orientation.

I, the undersigned, am over the age of eighteen and understand and appreciate the obligation of an oath. I am Authorized Representative (title) of Enstructure New Haven Holdings LLC dba Gateway Terminal (firm name), an entity duly formed and existing under the laws of Delaware (name of state or commonwealth) ("Contractor").

I certify that I am authorized to execute and deliver this affidavit on behalf of Contractor, as follows:

1. Contractor seeks to enter into the "SERVICE AGREEMENT" (the "Agreement") with the Connecticut Port Authority; and

2. Contractor has in place a company or corporate policy that complies with the nondiscrimination agreements and warranties required under Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended, and the said company or corporate policy is in effect as of the date hereof.

By (Signature): _____

Name (Print): Matthew Satnick

Title: Authorized Representative

Sworn to before me this 24th day of August 20 18

Mary W. Carace
Notary Public/Commissioner of the Superior Court

Commission Expiration Date

MARY W. CARACE
NOTARY PUBLIC
State of Connecticut
My Commission Expires October 31, 2022

Sections 4a-60(a)(1) and 4a-60a(a)(1) of the Connecticut General Statutes follow.

Sec. 4a-60. (Formerly Sec. 4-114a). Nondiscrimination and affirmative action provisions in contracts of the state and political subdivisions other than municipalities.

Every contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions:

The Contractor agrees and warrants that in the performance of the contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved;

Sec. 4a-60a. Contracts of the state and political subdivisions, other than municipalities, to contain provisions re nondiscrimination on the basis of sexual orientation.

(a) Every contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions:

(1) The Contractor agrees and warrants that in the performance of the contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation;

Form C
01-13-2016

STATE OF CONNECTICUT

NONDISCRIMINATION CERTIFICATION – Affidavit By Entity

For Contracts Valued at $50,000 or More

Documentation in the form of an affidavit signed under penalty of false statement by a chief executive officer, president, chairperson, member, or other corporate officer duly authorized to adopt corporate, company, or partnership policy that certifies the contractor complies with the nondiscrimination agreements and warranties under Connecticut General Statutes §§ 4a-60 and 4a-60a, as amended

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INSTRUCTIONS:

For use by an entity (corporation, limited liability company, or partnership) when entering into any contract type with the State of Connecticut valued at $50,000 or more for any year of the contract. Complete all sections of the form. Sign form in the presence of a Commissioner of Superior Court or Notary Public. Submit to the awarding State agency prior to contract execution.

AFFIDAVIT:

I, the undersigned, am over the age of eighteen (18) and understand and appreciate the obligations of an oath. I am Authorized Representative (Signatory's Title) of Enstructure New Haven Holdings LLC dba Gateway Terminal (Name of Entity), an entity duly formed and existing under the laws of Delaware (Name of State or Commonwealth).

I certify that I am authorized to execute and deliver this affidavit on behalf of Enstructure New Haven Holdings LLC dba Gateway Terminal (Name of Entity) and that Enstructure New Haven Holdings LLC dba Gateway Terminal (Name of Entity) has a policy in place that complies with the nondiscrimination agreements and warranties of Connecticut General Statutes §§ 4a-60 and 4a-60a, as amended.

Authorized Signatory

Matthew Satnick
Printed Name

Sworn and subscribed to before me on this 24 day of August 20 18.

Mary W. Cacace
Commissioner of the Superior Court/ Notary Public

Commission Expiration Date

Mary W. Cacace
NOTARY PUBLIC
State of Connecticut
My Commission Expires October 31, 2022

MS

EXHIBIT D

AFFIDAVIT CONCERNING CONSULTING FEES

(See form attached)

(See also OPM Ethics Form 5)

AFFIDAVIT CONCERNING CONSULTING FEES

Connecticut PORT AUTHORITY

Pursuant to Section 4a-81 of the Connecticut General Statutes, this Affidavit must be completed and properly executed under penalty of false statement by a chief official of the successful bidder/proposer/statement of qualifications submitter for an Agreement (the "Contractor"). Such chief official of the Contractor must be the person who is properly authorized to execute the Agreement on behalf of the Contractor. This Affidavit must be properly executed at the same time that the Contractor executes the Agreement. If the Contractor fails to execute this Affidavit, the Contractor shall be disqualified for the Agreement.

I, the undersigned, am over the age of eighteen and understand and appreciate the obligation of an oath.

I am Authorized Representative (title) of Gateway New London LLC (firm name), an entity duly formed and existing under the laws of Delaware (name of state or commonwealth) ("Contractor").

I certify that I am authorized to execute and deliver this affidavit on behalf of Contractor, as follows:

1. Contractor seeks to enter into the SERVICE AGREEMENT (the "Agreement") with the Connecticut Port Authority ("CPA");

2. Except as disclosed in Table 1 below and except for a consulting agreement that is with a contractor who is registered under the provisions of Chapter 10 of the Connecticut General Statutes[1] as of the date this Affidavit is submitted, Contractor has not entered into any consulting agreement[2] in connection with the Agreement whereby any duties of the contractor pursuant to said consulting agreement[2] require that contractor pursue communications concerning business of CPA, whether or not direct contact with CPA, a CPA official, a CPA employee, a state agency, a state or public official, or a state employee was expected or made;

3. Contractor shall amend this Affidavit whenever Contractor enters into any new consulting agreement[2] during the term of the Agreement; and

4. The statements set forth herein are true, to the best of my knowledge and belief, subject to the penalties of false statement.

[1] Pursuant to Section 1-94 of Chapter 10 the Connecticut General Statutes, a lobbyist as defined in the Chapter is required to register with the Office of State Ethics.

[2] Pursuant to Section 41-81 of the Connecticut General Statutes, for the purposes of this Affidavit, "consulting agreement" means "any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of (A) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the state, (B) contacting, whether in writing or orally, any executive, judicial, or administrative office of the state, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information, or (C) any other similar activity related to such contract. Consulting agreement does not include any agreements entered into with a consultant who is registered under the provisions of chapter 10 as of the date such affidavit is submitted in accordance with the provisions of this section."

TABLE 1: Disclosure of Consulting Agreements

(If Contractor has not entered into any consulting agreements[2] in connection with the Agreement, Contractor should enter "None" in the space provided for the "Name of Contractor.")

Name of Contractor:	None
Name of Contractor's Firm:	
Description of the Basic Terms of the Consulting Agreement:	
Brief Description of the Services Provided:	

Is the Contractor a Former State Employee or Public Official?	Yes	No

If the answer to the question above concerning whether or not the Contractor is a former state employee or public official is "Yes," the following information must be provided.

Name of Former Agency:	
Date Employment Terminated:	

By (Signature): _____

Name (Print): Matthew Satnick

Title: Authorized Representative

Sworn to before me this 4th day of January 20 19

_____ December 28, 2019

Notary Public/Commissioner of the Superior Court — Commission Expiration Date

SHALEEMA MITCHELL
NOTARY PUBLIC STATE OF NEW YORK
LIC. #01MI6334883
QUALIFIED IN WESTCHESTER COUNTY
MY COMMISSION EXPIRES DECEMBER 28, 2019

OPM Ethics Form 5 Rev. 3-28-14

STATE OF CONNECTICUT
CONSULTING AGREEMENT AFFIDAVIT

Affidavit to accompany a bid or proposal for the purchase of goods and services with a value of $50,000 or more in a calendar or fiscal year, pursuant to Connecticut General Statutes §§ 4a-81(a) and 4a-81(b). For sole source or no bid contracts the form is submitted at time of contract execution.

INSTRUCTIONS:

If the bidder or vendor has entered into a consulting agreement, as defined by Connecticut General Statutes § 4a-81(b)(1): Complete all sections of the form. If the bidder or contractor has entered into more than one such consulting agreement, use a separate form for each agreement. Sign and date the form in the presence of a Commissioner of the Superior Court or Notary Public. **If the bidder or contractor has not entered into a consulting agreement, as defined by Connecticut General Statutes § 4a-81(b)(1):** Complete only the shaded section of the form. Sign and date the form in the presence of a Commissioner of the Superior Court or Notary Public.

Submit completed form to the awarding State agency with bid or proposal. For a sole source award, submit completed form to the awarding State agency at the time of contract execution.

This affidavit must be amended if there is any change in the information contained in the most recently filed affidavit not later than (i) thirty days after the effective date of any such change or (ii) upon the submittal of any new bid or proposal, whichever is earlier.

AFFIDAVIT: [Number of Affidavits Sworn and Subscribed On This Day:_____]

I, the undersigned, hereby swear that I am a principal or key personnel of the bidder or contractor awarded a contract, as described in Connecticut General Statutes § 4a-81(b), or that I am the individual awarded such a contract who is authorized to execute such contract. I further swear that I have not entered into any consulting agreement in connection with such contract, **except for the agreement listed below**:

Consultant's Name and Title _____ Name of Firm (if applicable) _____

Start Date _____ End Date _____ Cost _____

Description of Services Provided: _____

_____

Is the consultant a former State employee or former public official? ☐ YES ☐ NO

If YES: Name of Former State Agency _____ Termination Date of Employment _____

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

Gateway New London LLC
Printed Name of Bidder or Contractor

Signature of Principal or Key Personnel _____ **Date** 1/4/19

Matthew Satnick
Printed Name (of above)

Awarding State Agency

Sworn and subscribed before me on this 4th **day of** January, **20** 19.

_____
Commissioner of the Superior Court or Notary Public

December 28, 2019
My Commission Expires

SHALEEMA MITCHELL
NOTARY PUBLIC STATE OF NEW YORK
LIC. #01MI6334883
QUALIFIED IN WESTCHESTER COUNTY
MY COMMISSION EXPIRES DECEMBER 28, 2019

EXHIBIT E

CONTRACTOR'S CERTIFICATION CONCERNING GIFTS

(See form attached)

(See also OPM Ethics Form 1)

CONTRACTOR'S CERTIFICATION CONCERNING GIFTS

Service Agreement

(This CERTIFICATION is to be signed by an authorized officer of the Contractor or the Contractor's managing general partner.)

Section 4-252 of the *Connecticut General Statutes* requires that a Contractor (i.e., the successful bidder/proposer/statement of qualifications submitter for an Agreement) complete and properly execute this Certification Concerning Gifts at the same time that the Contractor executes the Agreement. If the Contractor fails to make the required certifications, the Contractor shall be disqualified for the Agreement.

I, Matthew Satnick, a duly authorized officer and/or representative of Gateway New London LLC (firm name) (the "Contractor"), being duly sworn, hereby depose and say that:

1. I am over eighteen (18) years of age and believe in the obligations of an oath; and

2. The Contractor has submitted a bid for the "SERVICE AGREEMENT" (the "Agreement") to the Connecticut Port Authority ("CPA"), and has been selected by CPA as the successful bidder/proposer/SOQ submitter for the Agreement and is prepared to enter into the Agreement with CPA; and

3. No gifts were made between June 7, 2018 and the date of execution of the Agreement, by

(a) The Contractor,

(b) Any principals and key personnel of the Contractor who participated substantially in preparing the Contractor's bid/proposal/statement of qualifications for or the negotiation of the Agreement, or

(c) Any agent of the Contractor or principals and key personnel who participated substantially in preparing the Contractor's bid/proposal/statement of qualifications for or the negotiation of the Agreement

to

(1) Any public official or employee of CPA who participated substantially in the preparation of the bid/proposal/qualifications solicitation for or the negotiation or award of the Agreement (such CPA employees are listed in Table 2 below), or

(2) Any public official or state employee of any state agency who has supervisory or appointing authority over CPA (such public officials and state employees are listed in Table 3 below); and

4. No such principals and key personnel of the Contractor or agent of the Contractor or principals and key personnel knows of any action by Contractor to circumvent the prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the Contractor to provide a gift to any such public official or state employee; and

5. The Contractor made the bid/proposal/statement of qualifications for the Agreement without fraud or collusion with any person;

6. The information set forth herein is true, to the best of my knowledge and belief, subject to the penalties of false statement.

TABLE 2: CPA Substantial Participants in the Preparation of the Request for Bids for the Agreement

Evan Matthews, Executive Director
Joseph Salvatore, Project Manager

TABLE 3: Public Officials and State Employees of State Agencies Who Have Supervisory or Appointing Authority over CPA

Governor Dannel P. Malloy
Senator Martin Looney, President Pro Tempore of the Senate
Representative Joe Aresimowicz, Speaker of the House of Representatives
Representative Themis Klarides, Minority Leader of the House of Representatives
Senator Bob Duff, Majority Leader of the Senate
Senator Len Fasano, Minority Leader of the Senate

Signature: _____
Name (type/print): Matthew Satnick
Title: Authorized Representative
State Of: New York
County Of: New York

Matthew Satnick, being fully sworn, deposes and says that he/she is the Authorized Representative (Title) of Gateway New London LLC (Firm Name), the Contractor herein, that he/she has read the foregoing statement concerning gifts, and, under the penalty of perjury, certifies that each and every part of said statement is true to his/her best knowledge and belief.

Sworn to before me this 4th day of January 2019

_____
Notary Public/Commissioner of the Superior Court

December 28, 2019
Commission Expiration Date

SHALEEMA MITCHELL
NOTARY PUBLIC STATE OF NEW YORK
LIC. #01MI6334883
QUALIFIED IN WESTCHESTER COUNTY
MY COMMISSION EXPIRES DECEMBER 28, 2019

For the purposes of this Certification Concerning Gifts, the following terms are defined as follows:

"Gift" means anything of value, which is directly and personally received, unless consideration of equal or greater value is given in return. "Gift" shall **not** include:

(1) A political contribution otherwise reported as required by law or a donation or payment as described in subdivision (9) or (10) of subsection (b) of section 9-601a of the *Connecticut General Statutes*;

(2) Services provided by persons volunteering their time, if provided to aid or promote the success or defeat of any political party, any candidate or candidates for public office or the position of convention delegate or town committee member or any referendum question;

(3) A commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business;

(4) A gift received from (A) an individual's spouse, fiance or fiancee, (B) the parent, brother or sister of such spouse or such individual, or (C) the child of such individual or the spouse of such child;

(5) Goods or services (A) which are provided to a state agency or quasi-public agency (i) for use on state or quasi-public agency property, or (ii) that support an event , and (B) which facilitate state or quasi-public agency action or functions. As used in this Affidavit Concerning Gifts, "state property" means

(i) property owned by the state or a quasi-public agency, or (ii) property leased to a state agency or quasi-public agency;

(6) A certificate, plaque or other ceremonial award costing less than one hundred dollars;

(7) A rebate, discount or promotional item available to the general public;

(8) Printed or recorded informational material germane to state action or functions;

(9) Food or beverage or both, costing less than fifty dollars in the aggregate per recipient in a calendar year, and consumed on an occasion or occasions at which the person paying, directly or indirectly, for the food or beverage, or his representative, is in attendance;

(10) Food or beverage or both, costing less than fifty dollars per person and consumed at a publicly noticed legislative reception to which all members of the General Assembly are invited and which is hosted not more than once in any calendar year by a lobbyist or business organization. For the purposes of such limit, (A) a reception hosted by a lobbyist who is an individual shall be deemed to have also been hosted by the business organization which he owns or is employed by, and (B) a reception hosted by a business organization shall be deemed to have also been hosted by all owners and employees of the business organization who are lobbyists. In making the calculation for the purposes of such fifty-dollar limit, the donor shall divide the amount spent on food and beverage by the number of persons whom the donor reasonably expects to attend the reception;

(11) Food or beverage or both, costing less than fifty dollars per person and consumed at a publicly noticed reception to which all members of the General Assembly from a region of the state are invited and which is hosted not more than once in any calendar year by a lobbyist or business organization. For the purposes of such limit, (A) a reception hosted by a lobbyist who is an individual shall be deemed to have also been hosted by the business organization which he owns or is employed by, and (B) a reception hosted by a business organization shall be deemed to have also been hosted by all owners and employees of the business organization who are lobbyists. In making the calculation for the purposes of such fifty-dollar limit, the donor shall divide the amount spent on food and beverage by the number of persons whom the donor reasonably expects to attend the reception. As used in this subdivision, "region of the state" means the established geographic service area of the organization hosting the reception;

(12) Gifts costing less than one hundred dollars in the aggregate or food or beverage provided at a hospitality suite at a meeting or conference of an interstate legislative association, by a person who is not a registrant or is not doing business with the state of Connecticut;

(13) Admission to a charitable or civic event, including food and beverage provided at such event, but excluding lodging or travel expenses, at which a public official or state employee participates in his official capacity, provided such admission is provided by the primary sponsoring entity;

(14) Anything of value provided by an employer of (A) a public official, (B) a state employee, or (C) a spouse of a public official or state employee, to such official, employee or spouse, provided such benefits are customarily and ordinarily provided to others in similar circumstances; or

(15) Anything having a value of not more than ten dollars, provided the aggregate value of all things provided by a donor to a recipient under this subdivision in any calendar year shall not exceed fifty dollars.

(16) Training that is provided by a vendor for a product purchased by a state or quasi-public agency which is offered to all customers of such vendor; or

(17) Travel expenses, lodging, food, beverage and other benefits customarily provided by a prospective employer, when provided to a student at a public institution of higher education whose employment is derived from such student's status as a student at such institution, in connection with bona fide employment discussions.

"Participated substantially" means participation that is direct, extensive and substantive, and not peripheral, clerical or ministerial.

"Principals and key personnel" means officers, directors, shareholders, members, partners and managerial employees.

STATE OF CONNECTICUT
GIFT AND CAMPAIGN CONTRIBUTION CERTIFICATION

Written or electronic certification to accompany a State contract with a value of $50,000 or more, pursuant to C.G.S. §§ 4-250, 4-252(c) and 9-612(f)(2) and Governor Dannel P. Malloy's Executive Order 49.

INSTRUCTIONS:

Complete all sections of the form. Attach additional pages, if necessary, to provide full disclosure about any lawful campaign contributions made to campaigns of candidates for statewide public office or the General Assembly, as described herein. Sign and date the form, under oath, in the presence of a Commissioner of the Superior Court or Notary Public. Submit the completed form to the awarding State agency at the time of initial contract execution and if there is a change in the information contained in the most recently filed certification, such person shall submit an updated certification either (i) not later than thirty (30) days after the effective date of such change or (ii) upon the submittal of any new bid or proposal for a contract, whichever is earlier. Such person shall also submit an accurate, updated certification not later than fourteen days after the twelve-month anniversary of the most recently filed certification or updated certification.

CHECK ONE: ☒ Initial Certification ☐ 12 Month Anniversary Update (Multi-year contracts only.)

☐ Updated Certification because of change of information contained in the most recently filed certification or twelve-month anniversary update.

GIFT CERTIFICATION:

As used in this certification, the following terms have the meaning set forth below:

1) "Contract" means that contract between the State of Connecticut (and/or one or more of it agencies or instrumentalities) and the Contractor, attached hereto, or as otherwise described by the awarding State agency below;
2) If this is an Initial Certification, "Execution Date" means the date the Contract is fully executed by, and becomes effective between, the parties; if this is a twelve-month anniversary update, "Execution Date" means the date this certification is signed by the Contractor;
3) "Contractor" means the person, firm or corporation named as the contactor below;
4) "Applicable Public Official or State Employee" means any public official or state employee described in C.G.S. §4-252(c)(1)(i) or (ii);
5) "**Gift**" has the same meaning given that term in C.G.S. § 4-250(1);
6) "Principals or Key Personnel" means and refers to those principals and key personnel of the Contractor, and its or their agents, as described in C.G.S. §§ 4-250(5) and 4-252(c)(1)(B) and (C).

I, the undersigned, am a Principal or Key Personnel of the person, firm or corporation authorized to execute this certification on behalf of the Contractor. I hereby certify that, no gifts were made by (A) such person, firm, corporation, (B) any principals and key personnel of the person firm or corporation who participate substantially in preparing bids, proposals or negotiating state contracts or (C) any agent of such, firm, corporation, or principals or key personnel who participates substantially in preparing bids, proposals or negotiating state contracts, to (i) any public official or state employee of the state agency or quasi-public agency soliciting bids or proposals for state contracts who participates substantially in the preparation of bid solicitations or request for proposals for state contracts or the negotiation or award of state contracts or (ii) any public official or state employee of any other state agency, who has supervisory or appointing authority over such state agency or quasi-public agency.

I further certify that no Principals or Key Personnel know of any action by the Contractor to circumvent (or which would result in the circumvention of) the above certification regarding **Gifts** by providing for any other Principals, Key Personnel, officials, or employees of the Contractor, or its or their agents, to make a **Gift** to any Applicable Public Official or State Employee. I further certify that the Contractor made the bid or proposal for the Contract without fraud or collusion with any person.

CAMPAIGN CONTRIBUTION CERTIFICATION:

I further certify that, on or after January 1, 2011, neither the Contractor nor any of its principals, as defined in C.G.S. § 9-612(f)(1), has made any **campaign contributions** to, or solicited any contributions on behalf of, any exploratory committee, candidate committee, political committee, or party committee established by, or supporting or authorized to support, any candidate for statewide public office, in violation of C.G.S. § 9-612(f)(2)(A). I further certify that **all lawful campaign contributions** that have been made on or after January 1, 2011 by the Contractor or any of its principals, as defined in C.G.S. § 9-612(f)(1), to, or solicited on behalf of, any exploratory committee, candidate committee, political committee, or party committee established by, or supporting or authorized to support any candidates for statewide public office or the General Assembly, are listed below:

Lawful Campaign Contributions to Candidates for Statewide Public Office:

Contribution Date	Name of Contributor	Recipient	Value	Description
N/A				

Lawful Campaign Contributions to Candidates for the General Assembly:

Contribution Date	Name of Contributor	Recipient	Value	Description
N/A				

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

Gateway New London LLC
Printed Contractor Name

Matthew Satnick
Printed Name of Authorized Official

Signature of Authorized Official

Subscribed and acknowledged before me this 4th **day of** January, **20**19.

Commissioner of the Superior Court (or Notary Public)

December 28, 2019
My Commission Expires

SHALEEMA MITCHELL
NOTARY PUBLIC STATE OF NEW YORK
LIC. #01MI6334883
QUALIFIED IN WESTCHESTER COUNTY
MY COMMISSION EXPIRES DECEMBER 28, 2019

EXHIBIT F

EXECUTIVE DIRECTOR'S CERTIFICATION CONCERNING GIFTS

(See form attached)

(See also OPM Ethics Form 3)

OPM Ethics Form 3 Rev. 5-26-15

STATE OF CONNECTICUT
CERTIFICATION OF STATE AGENCY OFFICIAL OR EMPLOYEE AUTHORIZED TO EXECUTE CONTRACT

Certification to accompany a State contract, having a value of $50,000 or more, pursuant to Connecticut General Statutes §§ 4-250 and 4-252(b), and Governor Dannel P. Malloy's Executive Order 49.

INSTRUCTIONS:

Complete all sections of the form. Sign and date in the presence of a Commissioner of the Superior Court or Notary Public. Submit to the awarding State agency at the time of contract execution.

CERTIFICATION:

I, the undersigned State agency official or State employee, certify that (1) I am authorized to execute the attached contract on behalf of the State agency named below, and (2) the selection of the contractor named below was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

GATEWAY NEW LONDON, LLC
Contractor Name

CONNECTICUT PORT AUTHORITY
Awarding State Agency

[signature]
State Agency Official or Employee Signature

01-07-2019
Date

EVEN H. MATTHEWS
Printed Name

EXECUTIVE DIRECTOR.
Title

Sworn and subscribed before me on this 7th **day of** January, **20**19.

[signature]
Commissioner of the Superior Court
~~**or Notary Public**~~

~~**My Commission Expires**~~

AGREEMENT

Awarded To

Consultant

(This CERTIFICATION is to be signed by the Executive Director of CPA
at the time the Agreement is executed by him)

By submission of this Certification, the Executive Director of the Connecticut Port Authority ("CPA") hereby certifies that the selection of the most qualified or highest ranked person, firm or corporation for the "Professional Services Agreement" was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

Signature: _____

Name: **Evan H. Matthews**

Title: **Executive Director**

State Of: **Connecticut**

County Of: **Hartford**

Evan H. Matthews, being fully sworn, deposes and says that he is the Executive Director of the Connecticut Port Authority, that he has read the forgoing statement concerning collusion, the giving of gifts or the promise of gifts, compensation, fraud or inappropriate influence and, under the penalty of perjury, certifies that each and every part of said statement is true.

Sworn to before me this 7th day of January 2019

~~Notary Public/~~Commissioner of the Superior Court

_____

Scott Siedor

EXHIBIT G

CHRO NOTIFICATION TO BIDDERS

(See CHRO Form attached)

COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
CONTRACT COMPLIANCE REGULATIONS
NOTIFICATION TO BIDDERS
(Revised 09/3/15)

The contract to be awarded is subject to contract compliance requirements mandated by Sections 4a-60 and 4a-60a of the Connecticut General Statutes; and, when the awarding agency is the State, Sections 46a-71(d) and 46a-81i(d) of the Connecticut General Statutes. There are Contract Compliance Regulations codified at Section 46a-68j-21 through 43 of the Regulations of Connecticut State Agencies, which establish a procedure for awarding all contracts covered by Sections 4a-60 and 46a-71(d) of the Connecticut General Statutes.

According to Section 46a-68j-30(9) of the Contract Compliance Regulations, every agency awarding a contract subject to the contract compliance requirements has an obligation to "aggressively solicit the participation of legitimate minority business enterprises as bidders, contractors, subcontractors and suppliers of materials." "Minority business enterprise" is defined in Section 4a-60 of the Connecticut General Statutes as a business wherein fifty-one percent or more of the capital stock, or assets belong to a person or persons: "(1) Who are active in daily affairs of the enterprise; (2) who have the power to direct the management and policies of the enterprise; and (3) who are members of a minority, as such term is defined in subsection (a) of Section 32-9n." "Minority" groups are defined in Section 32-9n of the Connecticut General Statutes as "(1) Black Americans . . . (2) Hispanic Americans . . . (3) persons who have origins in the Iberian Peninsula . . . (4)Women . . . (5) Asian Pacific Americans and Pacific Islanders; (6) American Indians . . ." An individual with a disability is also a minority business enterprise as provided by Section 4a-60g of the Connecticut General Statutes. The above definitions apply to the contract compliance requirements by virtue of Section 46a-68j-21(11) of the Contract Compliance Regulations.

The awarding agency will consider the following factors when reviewing the bidder's qualifications under the contract compliance requirements:

(a) the bidder's success in implementing an affirmative action plan;
(b) the bidder's success in developing an apprenticeship program complying with Sections 46a-68-1 to 46a-68-17 of the Administrative Regulations of Connecticut State Agencies, inclusive;
(c) the bidder's promise to develop and implement a successful affirmative action plan;
(d) the bidder's submission of employment statistics contained in the "Employment Information Form", indicating that the composition of its workforce is at or near parity when compared to the racial and sexual composition of the workforce in the relevant labor market area; and
(e) the bidder's promise to set aside a portion of the contract for legitimate minority business enterprises. See Section 46a-68j-30(10)(E) of the Contract Compliance Regulations.

INSTRUCTIONS AND OTHER INFORMATION

The following BIDDER CONTRACT COMPLIANCE MONITORING REPORT must be completed in full, signed, and submitted with the bid for this contract. The contract awarding agency and the Commission on Human Rights and Opportunities will use the information contained thereon to determine the bidders compliance to Sections 4a-60 and 4a-60a CONN. GEN. STAT., and Sections 46a-68j-23 of the Regulations of Connecticut State Agencies regarding equal employment opportunity, and the bidder's good faith efforts to include minority business enterprises as subcontractors and suppliers for the work of the contract.

1) Definition of Small Contractor

Section 4a-60g CONN. GEN. STAT. defines a small contractor as a company that has been doing business under the same management and control and has maintained its principal place of business in Connecticut for a one year period immediately prior to its application for certification under this section, had gross revenues not exceeding fifteen million dollars in the most recently completed fiscal year, and at least fifty-one percent of the ownership of which is held by a person or persons who are active in the daily affairs of the company, and have the power to direct the management and policies of the company, except that a nonprofit corporation shall be construed to be a small contractor if such nonprofit corporation meets the requirements of subparagraphs (A) and (B) of subdivision 4a-60g CONN. GEN. STAT.

2) Description of Job Categories (as used in Part IV Bidder Employment Information) (Page 2)

MANAGEMENT: Managers plan, organize, direct, and control the major functions of an organization through subordinates who are at the managerial or supervisory level. They make policy decisions and set objectives for the company or departments. They are not usually directly involved in production or providing services. Examples include top executives, public relations managers, managers of operations specialties (such as financial, human resources, or purchasing managers), and construction and engineering managers.

BUSINESS AND FINANCIAL OPERATIONS: These occupations include managers and professionals who work with the financial aspects of the business. These occupations include accountants and auditors, purchasing agents, management analysts, labor relations specialists, and budget, credit, and financial analysts.

MARKETING AND SALES: Occupations related to the act or process of buying and selling products and/or services such as sales engineer, retail sales workers and sales representatives including wholesale.

LEGAL OCCUPATIONS: In-House Counsel who is charged with providing legal advice and services in regards to legal issues that may arise during the course of standard business practices. This category also includes assistive legal occupations such as paralegals, legal assistants.

COMPUTER SPECIALISTS: Professionals responsible for the computer operations within a company are grouped in this category. Examples of job titles in this category include computer programmers, software engineers, database administrators, computer scientists, systems analysts, and computer support specialists

ARCHITECTURE AND ENGINEERING: Occupations related to architecture, surveying, engineering, and drafting are included in this category. Some of the job titles in this category include electrical and electronic engineers, surveyors, architects, drafters, mechanical engineers, materials engineers, mapping technicians, and civil engineers.

OFFICE AND ADMINISTRATIVE SUPPORT: All clerical-type work is included in this category. These jobs involve the preparing, transcribing, and preserving o f written communications and records; collecting accounts; gathering and distributing information; operating office machines and electronic data processing equipment; and distributing mail. Job titles listed in this category include telephone operators, bill and account collectors, customer service representatives, dispatchers, secretaries and administrative assistants, computer operators and clerks (such as payroll, shipping, stock, mail and file).

BUILDING AND GROUNDS CLEANING AND MAINTENANCE: This category includes occupations involving landscaping, housekeeping, and janitorial services. Job titles found in this category include supervisors of landscaping or housekeeping, janitors, maids, grounds maintenance workers, and pest control workers.

CONSTRUCTION AND EXTRACTION: This category includes construction trades and related occupations. Job titles found in this category include boilermakers, masons (all types), carpenters, construction laborers, electricians, plumbers (and related trades), roofers, sheet metal workers, elevator installers, hazardous materials removal workers, paperhangers, and painters. Paving, surfacing, and tamping equipment operators; drywall and ceiling tile installers; and carpet, floor and tile installers and finishers are also included in this category. First line supervisors, foremen, and helpers in these trades are also grouped in this category.

INSTALLATION, MAINTENANCE AND REPAIR: Occupations involving the installation, maintenance, and repair of equipment are included in this group. Examples of job titles found here are heating, ac, and refrigeration mechanics and installers; telecommunication line installers and repairers; heavy vehicle and mobile equipment service technicians and mechanics; small engine mechanics; security and fire alarm systems installers; electric/electronic repair, industrial, utility and transportation equipment; millwrights; riggers; and manufactured building and mobile home installers. First line supervisors, foremen, and helpers for these jobs are also included in the category.

MATERIAL MOVING WORKERS: The job titles included in this group are Crane and tower operators; dredge, excavating, and lading machine operators; hoist and winch operators; industrial truck and tractor operators; cleaners of vehicles and equipment; laborers and freight, stock, and material movers, hand; machine feeders and offbearers; packers and packagers, hand; pumping station operators; refuse and recyclable material collectors; and miscellaneous material moving workers.

PRODUCTION WORKERS: The job titles included in this category are chemical production machine setters, operators and tenders; crushing/grinding workers; cutting workers; inspectors, testers sorters, samplers, weighers; precious stone/metal workers; painting workers; cementing/gluing machine operators and tenders; etchers/engravers; molders, shapers and casters except for metal and plastic; and production workers.

3) Definition of Racial and Ethnic Terms (as used in Part IV Bidder Employment Information). (Page 3)

White (not of Hispanic Origin)-All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East. Black (not of Hispanic Origin)-All persons having origins in any of the Black racial groups of Africa. Hispanic- All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.	Asian or Pacific Islander- All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippine Islands, and Samoa. American Indian or Alaskan Native- All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

BIDDER CONTRACT COMPLIANCE MONITORING REPORT

PART I – Bidder Information

Company Name: Enstructure New Haven Holdings LLC dba Gateway Street Address: 16 Laurel Ave, Suite 300 City & State: Wellesley, MA Chief Executive: Matthew Satnick	Bidder Federal Employer 81-3444562 (Parent Company FEIN) Identification Number: Or Social Security Number:
Major Business Activity: (brief description) Port and Terminal operator, cargo handling and transportation and logistics provider	Bidder Identification (response optional/definitions on page 1) -Bidder is a small contractor? Yes ☐ No ☑ -Bidder is a minority business enterprise? Yes ☐ No ☑ (If yes, check ownership category) Black ☐ Hispanic ☐ Asian American ☐ American Indian/Alaskan Native ☐ Iberian Peninsula ☐ Individual(s) with a Physical Disability ☐ Female ☐ -Bidder is certified as above by State of CT? Yes ☐ No ☐
Bidder Parent Company: Enstructure LLC (If any)	
Other Locations in CT: No (If any)	

PART II - Bidder Nondiscrimination Policies and Procedures

1. Does your company have a written Affirmative Action/Equal Employment Opportunity statement posted on company bulletin boards? Yes ☑ No ☐	7. Do all of your company contracts and purchase orders contain non-discrimination statements as required by Sections 4a-60 & 4a-60a Conn. Gen. Stat.? Yes ☐ No ☑
2. Does your company have the state-mandated sexual harassment prevention in the workplace policy posted on company bulletin boards? Yes ☑ No ☐	8. Do you, upon request, provide reasonable accommodation to employees, or applicants for employment, who have physical or mental disability? Yes ☑ No ☐
3. Do you notify all recruitment sources in writing of your company's Affirmative Action/Equal Employment Opportunity employment policy? Yes ☐ No ☑	9. Does your company have a mandatory retirement age for all employees? Yes ☐ No ☑
4. Do your company advertisements contain a written statement that you are an Affirmative Action/Equal Opportunity Employer? Yes ☐ No ☑	10. If your company has 50 or more employees, have you provided at least two (2) hours of sexual harassment training to all of your supervisors? Yes ☑ No ☐ N/A ☐
5. Do you notify the Ct. State Employment Service of all employment openings with your company? Yes ☐ No ☑	11. If your company has apprenticeship programs, do they meet the Affirmative Action/Equal Employment Opportunity requirements of the apprenticeship standards of the Ct. Dept. of Labor? Yes ☐ No ☐ N/A ☑
6. Does your company have a collective bargaining agreement with workers? Yes ☐ No ☑ 6a. If yes, do the collective bargaining agreements contain non-discrimination clauses covering all workers? Yes ☐ No ☐ 6b. Have you notified each union in writing of your commitments under the nondiscrimination requirements of contracts with the state of CT? Yes ☐ No ☐	12. Does your company have a written affirmative action Plan? Yes ☐ No ☑ If no, please explain. We are an equal opportunity employer 13. Is there a person in your company who is responsible for equal employment opportunity? Yes ☐ No ☑ If yes, give name and phone number:

Part III - Bidder Subcontracting Practices (Page 4)

1. Will the work of this contract include subcontractors or suppliers? Yes ☐ No ☑

1a. If yes, please list all subcontractors and suppliers and report if they are a small contractor and/or a minority business enterprise. (defined on page 1 / use additional sheet if necessary)

1b. Will the work of this contract require additional subcontractors or suppliers other than those identified in 1a. above? Yes ☐ No ☑

PART IV - Bidder Employment Information Date: 8/24/16

JOB CATEGORY*	OVERALL TOTALS	WHITE (not of Hispanic origin)		BLACK (not of Hispanic origin)		HISPANIC		ASIAN or PACIFIC ISLANDER		AMERICAN INDIAN or ALASKAN NATIVE	
		Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Management	10	10									
Business & Financial Ops	3	2	1								
Marketing & Sales	2	2									
Legal Occupations											
Computer Specialists											
Architecture/Engineering											
Office & Admin Support	4		4								
Bldg/ Grounds Cleaning/Maintenance											
Construction & Extraction											
Installation, Maintenance & Repair	4	3				1					
Material Moving Workers	122	82		9		31					
Production Occupations											
TOTALS ABOVE	145	99	5	9		32					
Total One Year Ago	145	99	5	9		32					
FORMAL ON THE JOB TRAINERS (ENTER FIGURES FOR THE SAME CATEGORIES AS ARE SHOWN ABOVE)											
Apprentices											
Trainees											

*NOTE: JOB CATEGORIES CAN BE CHANGED OR ADDED TO (EX. SALES CAN BE ADDED OR REPLACE A CATEGORY NOT USED IN YOUR COMPANY)

MS

PART V - Bidder Hiring and Recruitment Practices

1. Which of the following recruitment sources are used by you? (Check yes or no, and report percent used)				2. Check (X) any of the below listed requirements that you use as a hiring qualification (X)		3. Describe below any other practices or actions that you take which show that you hire, train, and promote employees without discrimination
SOURCE	YES	NO	% of applicants provided by source			
State Employment Service	☐	☑			Work Experience	
Private Employment Agencies	☑	☐	5		Ability to Speak or Write English	
Schools and Colleges	☑	☐	5		Written Tests	
Newspaper Advertisement	☑	☐	10		High School Diploma	
Walk Ins	☑	☐	15		College Degree	
Present Employees	☑	☐	15		Union Membership	
Labor Organizations	☐	☑			Personal Recommendation	
Minority/Community Organizations	☐	☑			Height or Weight	
Others (please identify)	☑	☐	50		Car Ownership	
WWW Employment sites	☐	☐			Arrest Record	
	☐	☐			Wage Garnishments	

Certification (Read this form and check your statements on it CAREFULLY before signing). I certify that the statements made by me on this BIDDER CONTRACT COMPLIANCE MONITORING REPORT are complete and true to the best of my knowledge and belief, and are made in good faith. I understand that if I knowingly make any misstatements of facts, I am subject to be declared in non-compliance with Section 4a-60, 4a-60a, and related sections of the CONN. GEN. STAT.

(Signature)	(Title)	(Date Signed)	(Telephone)
	Authorized Representative	8/7/18	203-467-1997

STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

NOTICE CONCERNING CONTRACT COMPLIANCE RESPONSIBILITIES

TO ALL LABOR UNIONS, WORKERS REPRESENTATIVES AND VENDORS:

Any contract this contractor has with the State of Connecticut or political subdivisions of the state, other than municipalities, shall be performed in accordance with CONN. GEN. STAT. Section 4a-60 and Section 4a-60a.

This means that this contractor:

1. Agrees to provide the Commission on Human Rights and Opportunities (CHRO) with any information concerning this contractor's employment practices and procedures which relates to the Commission's responsibilities under CONN. GEN. STAT. Sections 4a-60 or 46a-56 or Section 4a-60a.; and

2. Agrees to include the provisions of CONN. GEN. STAT. Section 46a-60(a) and Section 4a-60a in each and every subcontract and purchase order and to take whatever action the CHRO deems necessary to enforce these provisions.

WITH REGARD TO RACE, COLOR, RELIGIOUS CREED, AGE, MARITAL STATUS, NATIONAL ORIGIN, ANCESTRY, SEX, MENTAL RETARDATION OR PHYSICAL DISABILITY, this means that this contractor:

1. Shall not discriminate or permit discrimination against anyone;

2. Shall take affirmative action so that persons applying for employment are hired on the basis of job-related qualifications and that employees once hired are treated without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, unless the contractor can show that the disability prevents performance of the work involved;

3. Shall state in all advertisements for employees that it is an affirmative action-equal opportunity employer;

4. Shall comply with CONN. GEN. STAT. Sections 4a-60, 46a-68e and 46a-68f and with each regulation or relevant order issued by the CHRO under CONN. GEN. STAT. Sections 46a-56, 46a-68e and 46a-68f; and

5. Shall make, if the contract is a public works contract, good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials.

MS

WITH REGARD TO SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION:

1. The contractor will not discriminate or permit discrimination against anyone, and employees will be treated without regard to their sexual orientation, gender identity or expression once employed; and

2. The contractor agrees to fully comply with Section 4a-60a and each regulation or relevant order issued by the CHRO under CONN. GEN. STAT. Section 46a-56.

Persons having questions about this notice or their rights under the law are urged to contact the:

COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
AFFIRMATIVE ACTION AND CONTRACT COMPLIANCE
UNIT

450 Columbus Boulevard, Suite 2
Hartford, CT 06103
(860) 541-4709

COPIES OF THIS NOTICE SHALL BE POSTED IN CONSPICUOUS PLACES AVAILABLE TO ALL EMPLOYEES AND APPLICANTS FOR EMPLOYMENT

EXHIBIT H

IRAN CERTIFICATION FORM

(See form attached)

(See also OPM Iran Certification Form 7)

Connecticut PORT AUTHORITY

IRAN CERTIFICATION FORM

This form must be completed and properly executed under penalty of false statement by a chief executive officer, president, chairperson, member or other corporate officer duly authorized to adopt company, corporate or partnership policy of the business entity submitting a bid/proposal/statement of qualifications to the Connecticut Port Authority.

I, Matthew Satnick (name), Authorized Representative (title) of Enstructure New Haven Holdings LLC dba Gateway Terminal (firm name, hereafter "Contractor") an entity duly formed and existing under the laws of Delaware, being duly sworn, hereby depose that:

i. I am over the age of eighteen and understand and appreciate the obligations of an oath

ii. Contractor seeks to enter into the "SERVICE AGREEMENT" (the "Agreement") with the Connecticut Port Authority; and

iii. Contractor hereby certifies as follows:

Section 1: APPLICABILITY

Check applicable box *(must be completed regardless of where the Contractor's principal place of business is located):*

☒ Contractor's principal place of business is within the United States or Contractor is a United States subsidiary of a foreign corporation. **Contractors who check this box are not required to complete the Section 2: Certification portion of this form, but are still required to complete Section 3 of this form.**

☐ Contractor's principal place of business is outside the United States and it is not a United States subsidiary of a foreign corporation. **Contractors who check this box are required to complete all sections of this form.**

Please complete this form as specified in this Section 1 and submit it with the RFB, RFP or RFQ response or contract package if there was no RFB, FRP, or RFQ process.

Additional definitions.

1) "Large state contract" has the same meaning as defined in section 4-250 of the Connecticut General Statutes;
2) "Contractor" means the person whose name is set forth at the beginning of this form; and
3) "State agency" and "quasi-public agency" have the same meanings as provided in section 1-79 of the Connecticut General Statutes.

Section 2: CERTIFICATION

Pursuant to P.A. No. 13-162, upon submission of a bid, or prior to executing a large state contract if no bid process was conducted, **the certification portion of this form must be completed** by any corporation, general partnership, limited partnership, limited liability partnership, joint venture, nonprofit organization or other business organization **whose principal place of business is located outside of the United States.** United States subsidiaries of foreign corporations are exempt. For purposes of this form, a "foreign corporation" is one that is organized and incorporated outside the United States of America.

CERTIFICATION:

I, the undersigned, am the official authorized to execute contracts on behalf of the Contractor. I certify that:

☐ Contractor has made no direct investments of twenty million dollars or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010.

☐ Contractor has either made direct investments of twenty million dollars or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, or Contractor made such an investment prior to October 1, 2013 and has now increased or renewed such an investment on or after said date, or both.

Section 3: AFFIRMATION

Note: This Section 3 must be completed even if Section 2 of this form was not required based on the responses in Section 1 of this form.

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

Enstructure New Haven Holdings LLC dba Gateway Terminal
Printed Contractor Name

Matthew Satnick
Printed Name of Authorized Official

Signature of Authorized Official

Subscribed and acknowledged before me this 24 **day of** August **, 20** 18.

Mary W. Cacace
Commissioner of the Superior Court (or Notary Public)

Mary W. Cacace
NOTARY PUBLIC
State of Connecticut
My Commission Expires October 31, 2022

STATE OF CONNECTICUT
Written or electronic PDF copy of the written certification to accompany a large state contract pursuant to P.A. No. 13-162 (Prohibiting State Contracts With Entities Making Certain Investments In Iran)

Respondent Name: Enstructure New Haven Holdings LLC dba Gateway Terminal

INSTRUCTIONS:

CHECK ONE: ☒ Initial Certification.
☐ Amendment or renewal.

A. Who must complete and submit this form. Effective October 1, 2013, this form must be submitted for any large state contract, as defined in section 4-250 of the Connecticut General Statutes. This form must always be submitted with the bid or proposal, or if there was no bid process, with the resulting contract, regardless of where the principal place of business is located.

Pursuant to P.A. No. 13-162, upon submission of a bid or prior to executing a large state contract, **the certification portion of this form must be completed** by any corporation, general partnership, limited partnership, limited liability partnership, joint venture, nonprofit organization or other business organization **whose principal place of business is located outside of the United States.** United States subsidiaries of foreign corporations are exempt. For purposes of this form, a "foreign corporation" is one that is organized and incorporated outside the United States of America.

Check applicable box:

☒ Respondent's principal place of business is within the United States or Respondent is a United States subsidiary of a foreign corporation. Respondents who check this box **are not required to complete the certification portion of this form,** but must submit this form with its Invitation to Bid ("ITB"), Request for Proposal ("RFP") or contract package if there was no bid process.

☐ Respondent's principal place of business is outside the United States and it is not a United States subsidiary of a foreign corporation. **CERTIFICATION required.** Please complete the certification portion of this form and submit it with the ITB or RFP response or contract package if there was no bid process.

B. Additional definitions.

1) "Large state contract" has the same meaning as defined in section 4-250 of the Connecticut General Statutes;
2) "Respondent" means the person whose name is set forth at the beginning of this form; and
3) "State agency" and "quasi-public agency" have the same meanings as provided in section 1-79 of the Connecticut General Statutes.

C. Certification requirements.

No state agency or quasi-public agency shall enter into any large state contract, or amend or renew any such contract with any Respondent whose principal place of business is located outside the United States and is not a United States subsidiary of a foreign corporation unless the Respondent has submitted this certification.

Complete all sections of this certification and sign and date it, under oath, in the presence of a Commissioner of the Superior Court, a Notary Public or a person authorized to take an oath in another state.

CERTIFICATION:

I, the undersigned, am the official authorized to execute contracts on behalf of the Respondent. I certify that:

☒ Respondent has made no direct investments of twenty million dollars or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010.

☐ Respondent has either made direct investments of twenty million dollars or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, or Respondent made such an investment prior to October 1, 2013 and has now increased or renewed such an investment on or after said date, or both.

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

Enstructure New Haven Holdings LLC dba Gateway Terminal
Printed Respondent Name

Matthew Satnick
Printed Name of Authorized Official

Signature of Authorized Official

Subscribed and acknowledged before me this 24 **day of** August, 20 18.

Mary W. Cacace
Commissioner of the Superior Court (or Notary Public)

Mary W. Cacace
NOTARY PUBLIC
State of Connecticut
My Commission Expires October 31, 2022

My Commission Expires

EXHIBIT I

AFFIRMATION OF RECEIPT OF STATE ETHICS LAWS SUMMARY

(See OPM Ethics Form 6 attached)

OPM Ethics Form 6 Rev. 10-01-11

STATE OF CONNECTICUT
AFFIRMATION OF RECEIPT OF STATE ETHICS LAWS SUMMARY

Written or electronic affirmation to accompany a large State construction or procurement contract, having a cost of more than $500,000, pursuant to Connecticut General Statutes §§ 1-101mm and 1-101qq

INSTRUCTIONS:

Complete all sections of the form. Submit completed form to the awarding State agency or contractor, as directed below.

CHECK ONE:

- [x] I am a person seeking a large State construction or procurement contract. I am submitting this affirmation to the awarding State agency with my bid or proposal. [Check this box if the contract will be awarded through a competitive process.]
- [ ] I am a contractor who has been awarded a large State construction or procurement contract. I am submitting this affirmation to the awarding State agency at the time of contract execution. [Check this box if the contract was a sole source award.]
- [ ] I am a subcontractor or consultant of a contractor who has been awarded a large State construction or procurement contract. I am submitting this affirmation to the contractor.
- [ ] I am a contractor who has already filed an affirmation, but I am updating such affirmation either (I) no later than thirty (30) days after the effective date of any such change or (II) upon the submittal of any new bid or proposal, whichever is earlier.

IMPORTANT NOTE:

Within fifteen (15) days after the request of such agency, institution or quasi-public agency for such affirmation contractors shall submit the affirmations of their subcontractors and consultants to the awarding State agency. Failure to submit such affirmations in a timely manner shall be cause for termination of the large State construction or procurement contract.

AFFIRMATION:

I, the undersigned person, contractor, subcontractor, consultant, or the duly authorized representative thereof, affirm (1) receipt of the summary of State ethics laws* developed by the Office of State Ethics pursuant to Connecticut General Statutes § 1-81b and (2) that key employees of such person, contractor, subcontractor, or consultant have read and understand the summary and agree to comply with its provisions.

* The summary of State ethics laws is available on the State of Connecticut's Office of State Ethics website.

Signature _____ Date 8/24/18

Matthew Satnick
Printed Name

Authorized Representative
Title

Enstructure New Haven Holdings LLC dba Gateway Terminal
Firm or Corporation (if applicable)

16 Laurel Ave, Suite 300
Street Address

Wellesley Hills
City

MA
State

02481
Zip

CPA
Awarding State Agency

State Contractors
Guide to the Code of Ethics



Office of State Ethics

Carol Carson, Executive Director

Contact Us

Agency Address: Connecticut Office of State Ethics
18-20 Trinity Street
Suite 205
Hartford, CT 06106

Telephone: 860-263-2400

Facsimile: 860-263-2402

Website: www.ct.gov/ethics

Business Hours: 8:00 am to 5:00 pm

Visitors must enter the building through the door next to the Bushnell Memorial Theater.

Specific E-mail Contacts: For the timeliest responses, please be sure to direct your questions to the appropriate e-mail address; for example, with a question such as, "Can I accept this outside position with a vendor?" please be sure to send your query to ethics.code.@ct.gov

➢ Legal Advice Regarding Code of Ethics	ethics.code@ct.gov
➢ Lobbyist Filing/Reporting Questions	lobbyist.ose@ct.gov
➢ Public Official Filing/Reporting Questions	sfi.ose@ct.gov
➢ Enforcement/Filing a Complaint	ethics.enforcement@ct.gov
➢ All Other Inquiries	ose@ct.gov

Staff Phone Number Listing

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OFFICE OF STATE ETHICS

Created on July 1, 2005, under Public Act 05-183, the Office of State Ethics ("OSE") is an independent regulatory division of the Office of Governmental Accountability charged with administering and enforcing the Connecticut Codes of Ethics ("Ethics Codes"), which are found in Chapter 10 of the Connecticut General Statutes.

The OSE's duties include educating all those covered by the Ethics Codes; interpreting and applying the Ethics Codes; investigating violations of, and otherwise enforcing, the Ethics Codes; and providing information to the public.

The OSE's jurisdiction:

Part I	Code of Ethics for Public Officials General Statutes §§ 1-79 to 1-90a
Part II	Code of Ethics for Lobbyists General Statutes §§ 1-91 to 1-101a
Part III	Lobbying: Miscellaneous Provisions General Statutes §§ 1-101aa and 1-101bb
Part IV	Ethical Considerations Concerning Bidding and State Contracts General Statutes §§ 1-101mm to 1-101rr

The OSE Executive Director has overall responsibility for the welfare and effectiveness of the OSE, which has three divisions, the legal division, the enforcement division, and the administrative division.

The OSE's governing body is the Citizen's Ethics Advisory Board ("CEAB"), which has nine members appointed by the Governor and legislative leadership. The CEAB holds monthly meetings that are open to the public. A schedule of CEAB meeting dates, times, and locations is available at www.ct.gov/ethics.

CEAB Members:

- Attend monthly CEAB meetings
- Appoint and evaluate the Executive Director of the OSE
- Issue advisory opinions to persons subject to the Ethics Codes
- Serve as a Hearing Officer for non-confidential hearings held under the Uniform Administrative Procedures Act, General Statutes § 4-166 *et. seq.*
- Attend hearings to determine if violations occurred and, if so, assess penalties
- Attend special meetings if necessary
- Oversee legislative agenda

THE BIG PICTURE

Like state employees and officials, state contractors are subject to the Ethics Codes, but in a more limited manner. That is, they are not, as Advisory Opinion No. 99-26 puts it, "subject to the far more restrictive provisions . . . that apply to state employees and public officials," but they are subject to certain "narrow constraints."

As you read through this guide, be aware that these restraints, and those that apply to state employees and officials, were enacted to prevent persons from using their public position or authority for their own financial benefit, or for the financial benefit of certain others (for example, family members).

Also be aware that each state agency has its own ethics policy, which may be more restrictive than what follows, particularly concerning the types of benefits a state employee or official may accept from state contractors (and others).

CONFLICTS

The Ethics Codes contain two primary conflict statutes that apply specifically to state contractors: General Statutes §§ 1-86e and 1-101nn.

GENERAL STATUTES § 1-86e

Section 1-86e applies to any "person hired by the state as a consultant or independent contractor." Such persons may not do as follows:

(1) Use the authority, or confidential information, provided under the contract to financially benefit the person, an employee, or an immediate family member;

(2) Accept another state contract that would impair the person's independence of judgment in performing the existing contract; or

(3) Accept a bribe (that is, accept anything of value based on an understanding that the person's actions on the state's behalf would be influenced).

Key points from Advisory Opinion No. 99-26 concerning § 1-86e:

- Section 1-86e is not intended to interfere with a contractor's business, but to prevent a private entity from using state money to, for example, hire immediate family members without appropriate state oversight.

- A conflict of interest exists only if there is a connection between the facts in question and the state money and authority granted to the independent contractor or consultant by contract.

- The term "independent contractor" does not apply just to individuals, but also to private agencies that contract with the state.

- If a state contractor wants to hire a family member to work under a state contract, the following procedure must be followed:

    1. The contractor must notify the contracting state agency in writing and demonstrate why the individual is appropriate for the job.

    2. The state agency must determine if the person is qualified for the job and whether the compensation is market rate; and if necessary, it may require the contractor to document a job search.

NOTE: *In an enforcement action, a former state contractor was alleged to have violated § 1-86e (a) (1) by using confidential information gained under its contract with a state agency in its subsequent representation of clients before that agency. The contractor entered into a Consent Order with the OSE, agreeing to pay a $10,000 penalty.*

GENERAL STATUTES § 1-101nn

Subsection (a) of § 1-101nn applies to persons who are, or are seeking to be:

(1) Prequalified under General Statutes § 4a-100;

(2) A party to a large state construction or procurement contract, as defined in General Statutes § 1-101mm (3), with a state or quasi-public agency; or

(3) A party to a consultant services contract with a state or quasi-public agency.

Such persons may not do as follows:

(A) Solicit information from state officials or employees that is not available to other bidders;

(B) Defraud the state (that is, charge a state or quasi-public agency for work not performed or goods not provided);

(C) Attempt to circumvent state competitive bidding and ethics laws; or

(D) Provide information about the person's donation of goods and services to state or quasi-public agencies in order to influence the award of a state contract.

Subsection (b) of § 1-101nn applies to a more limited group: Any consultant that is hired by the state *to help plan a state contract*, and any "associated" businesses, as defined in General Statutes § 1-101mm (1).

Under § 1-101nn (b) neither the consultant nor any "associated" businesses may serve in the following roles with respect to the contract the consultant helped to plan:

- Consultant to any person seeking to obtain the contract,
- Contractor for the contract, or
- Consultant or subcontractor to the person awarded the contract.

***NOTE:** If you are unsure whether § 1-101nn applies to you, please contact the OSE, because any person found to have violated this section may be deemed a "nonresponsible bidder" by a state or quasi-public agency. General Statutes § 1-101nn (c).*

ONE MORE CONFLICT RULE (of limited applicability)

General Statutes § 1-84 (n) bars the State Treasurer from doing business with an investment services firm whose political committee or principals have contributed to, or solicited contributions for, her exploratory or candidate campaign committee.

The prohibition applies during the term of office for which the candidate is campaigning, as well as for the remainder of an incumbent treasurer's term.

The prohibition applies only to contributions to the incumbent or victorious candidate for the office. Advisory Opinion No. 2003-1.

ARE YOU REQUIRED TO REGISTER AS A LOBBYIST?

With certain exceptions, efforts to obtain a state contract can be considered administrative lobbying, requiring registration as a client lobbyist.

Some Key Terms

Client lobbyist: Generally, an individual or entity that, on its own behalf, expends or agrees to expend $3,000 or more in a calendar year for *administrative* and/or legislative lobbying and activities in furtherance of lobbying. General Statutes § 1-91 (12).

Lobbying: Generally, communicating directly, or soliciting others to communicate, with any public official or his or her staff in the legislative or executive branch, or in a quasi-public agency, in an effort to influence legislative or *administrative action*. General Statutes § 1-91 (11).

Administrative action: Any matter within a state or quasi-public agency's jurisdiction—such as any action or nonaction concerning a contract. General Statutes § 1-91 (1).

Exceptions to Administrative Lobbying

The following activities are not considered administrative lobbying:

- Preparation of responses to an agency's request for proposals ("RFP"). OSE Regs. § 1-92-42a (e) (1).
- Communications strictly for informational purposes (e.g., to determine what agency contract proposals will be forthcoming). OSE Regs. § 1-92-42a (e) (3).
- Communications by a vendor's representative who acts as a *salesperson* and does not otherwise engage in administrative lobbying. General Statutes § 1-91 (11) (B).
    - "Salespersons": Generally, individuals who have a set territory they routinely cover, and who are not part of a company's executive management. See Advisory Opinion No. 95-11.

Thus, if your contact with state or quasi-public agencies is limited to responding to RFPs, or otherwise pursuing a contract through the **normal agency process**, then you are not required to register as a "client lobbyist."

But you are "lobbying" if you go **outside the agency process** in trying to obtain a state contract. For example:

- Entertaining state employees and officials.
- Communicating with officials outside the agency (such as the Governor or legislators).
- Communicating with officials within the agency but outside the normal process (such as the agency head).

If $3,000 or more is spent on such lobbying activities, "lobbyist" registration is required. See General Statutes § 1-94.

Hypothetical from Advisory Opinion No. 2003-6:

In responding to a state agency's RFP, a business entity spends $3,500 in printing and personnel costs in taking a number of steps within the agency's normal contracting process. But in an effort to secure the contract, the entity contacts the Governor, thus taking action outside the normal agency process and, in doing so, expends an additional $500 in personnel costs. Must it register as a lobbyist?

No. The $3,500 spent in following the normal process to respond to the RFP is exempted from consideration as a lobbying expense. Therefore this entity would not have to register as a client lobbyist, because it has spent only $500 towards its lobbying effort.

***NOTE:** If you are unsure whether you must register as a "lobbyist," please contact the OSE and/or review the "Client Lobbyist Guide to the Code of Ethics."*

GIFTS

GIVING GIFTS

General Statutes § 1-84 (m) contains the "gift"-giving bans for state contractors and potential state contractors:

- An individual or entity **doing or seeking to do business** with a state agency may not give a "gift" to any of that agency's employees or officials.
    - This is an *agency-specific ban*, meaning: If an entity is doing or seeking to do business with State Agency X—but not with any other state agency—then it is prohibited from giving "gifts" only to employees and officials of State Agency X.
- A person **prequalified under § 4a-100** may not knowingly give a "gift" to any state employee or official.
    - This ban is *not agency specific*, meaning it applies to all state employees and officials, even if the person is not doing or seeking to do business with an employee's or official's agency. (Registered lobbyists are subject to a similar ban. See General Statutes § 1-97 (a).)

What is a "gift"?

General Statutes § 1-79 (5) defines "gift" in three parts:

1. "anything of value" (for example, money, tickets to a sporting event, meals, services, etc.),
2. "which is directly and personally received" (that is, the state employee or official accepts the opportunity to partake of it),
3. "unless consideration of equal or greater value is given in return" (that is, unless the state employee or official pays fair market value for it).

Gift exceptions

There are many benefits that are not deemed "gifts," some of which may be used by state contractors, including these:

- Token Items: Items valued less than $10 (such as a pen or mug), provided the annual aggregate of such items from a single source is $50 or less. General Statutes § 1-79 (5) (P).

- Food/Beverage: Up to $50 in food/beverage annually, provided the donor or a representative is in attendance when it is being consumed. General Statutes § 1-79 (5) (l).

- Training: Training provided by a vendor for a product purchased by a state entity, provided it is offered to all of the vendor's customers. General Statutes § 1-79 (5) (Q).

- Ceremonial awards: A certificate, plaque or other ceremonial award valued at less than $100. General Statutes § 1-79 (5) (F).

- Gifts to the State: Goods or services given to a state entity. The gift must facilitate state action, and must (1) be for use on state property (e.g., a computer), (2) support a state event (e.g., funds to support an agency event), or (3) support the participation by a state employee or official at an event (e.g., funds for an agency employee to attend an educational conference relevant to his state duties). General Statutes § 1-79 (5) (e).

NOTE: *There is a "gift" exception in § 1-79 (5) (L) for "major life events" (a term defined by regulation), but state contractors and potential state contractors may not use it.*

Gift Reporting

If a person doing or seeking to do business with a state agency gives an agency employee or official any of the benefits found in the "gift" exceptions, the person may have a reporting obligation. See General Statutes § 1-84 (o).

Generally, if the benefit is valued over $10, the person (or a representative) must do as follows: Give *both* the recipient *and* the executive head of the recipient's department or agency a written report stating:

- The donor's name,
- A description of the item or items given,
- The value of such items, and
- The cumulative value of all items given to such recipient in the calendar year.

NOTE: *This helps both the donor and the state employee or official keep track of the "gift" exceptions noted above, so that permissible limits are not exceeded.*

ACCEPTING GIFTS

In Advisory Opinion No. 99-17, the conflict language in § 1-86e (a) (1) (see above) was interpreted as creating the following rule:

- If, as a state contractor or an employee thereof, you are offered benefits from a person by virtue of your authority under the state contract (for example, clients of the contracting state agency), you may accept **no more** than $100 annually from that person.

NOTE: *In an enforcement action, a former employee of a state contractor was found to have violated § 1-86e (a) (1)—and ordered to pay a $10,000 penalty—for using his authority over a subcontractor to solicit free or discounted gifts, services and other items of value (e.g., meals and tickets to sporting events and concerts).*

NECESSARY EXPENSES

General Statutes § 1-84 (k)—the "necessary expenses" provision—prohibits a state employee or official from accepting a fee or honorarium for participating at an event *in his or her official capacity.*

However, a state employee or official may receive payment or reimbursement for "necessary expenses" if—in his or her official capacity—the employee or official *actively participates* in the event (for example, gives a speech or runs a workshop).

"Necessary expenses" are not considered gifts and may include the cost of:

- Travel (coach),
- Lodging (standard room for the nights before, of, and immediately following the event),
- Meals (non-lavish), and
- Conference or seminar registration fees.

"Necessary expenses" do not include the cost of entertainment (tickets to sporting events, golf outings, etc.), or payment of expenses for family members or other guests.

A state contractor has *no reporting obligations* when it pays for, or reimburses, a state employee's or official's "necessary expenses."

Example:

A state contractor is hosting an out-of-state conference and would like the Governor to come and give a speech in his official capacity. The contractor has offered to pay the Governor's

travel and lodging expenses, to waive his conference registration fee, and to give him a $500 honorarium. Permissible?

The Governor may not accept the $500 honorarium (because he is participating in his official capacity), but may accept payment or reimbursement for "necessary expenses," which include coach-class travel, standard lodging for the nights before, of, and after the speech, and waiver of the conference registration fee.

HIRING CURRENT OR FORMER STATE EMPLOYEES AND OFFICIALS

Former State Employees and Officials

A state contractor wanting to hire a *former* state employee or official should be aware of the Code's post-state employment prohibitions. See General Statutes §§ 1-84a and 1-84b.

Most of these prohibitions are "personal" to the former state employees and officials, meaning they do not apply to their post-state *employers*. These include:

- Confidential information: A former state employee or official may ***never*** "disclose or use confidential information" gained in state service for anyone's financial gain. General Statutes § 1-84a.

- Side switching: A former state employee or official may ***never*** "represent anyone other than the state, concerning any particular matter (1) in which he participated personally and substantially while in state service, and (2) in which the state has a substantial interest." General Statutes § 1-84b (a).

- Cooling off: For ***one year*** after leaving state service, a former state employee or official may not "represent" anyone for compensation before their former state agency. ("Represent" means doing any activity that reveals the former state employee's or official's identity.) General Statutes § 1-84b (b).

NOTE: *Certain former employees and officials of the Department of Consumer Protection and the Department of Emergency Services and Public Protection are subject to a two-year employment ban with respect to entities engaged in Indian gaming operations. General Statutes § 1-84b (d) and (e).*

Prohibitions on Employer

There are two post-state employment provisions that apply not only to former state employees and officials—but also to those that hire them:

- For ***one year*** after leaving state service, a former state employee or official may not accept employment with a party to a state contract valued at $50,000 or more, if:

(1) He or she participated substantially in, or supervised, the negotiation or award of that contract, and
(2) It was signed within his or her last year of state service.

Further, *"[n]o party to such a contract or agreement . . . shall employ any such former public official or state employee in violation of this subsection."* General Statutes § 1-84b (f).

- Individuals who held designated positions at certain state regulatory agencies may not—for **one year** after leaving state service—"accept employment with a business subject to regulation by that agency." Further, *"[n]o business shall employ a . . . former public official or state employee in violation of this subsection."* General Statutes § 1-84b (c).

Current State Employees and Officials

State contractors wanting to hire a *current* state employee or official should be aware of the Code's outside-employment rules, which bar the employee or official from:

- Accepting outside employment with an individual or entity that can benefit from the state servant's official actions (e.g., the individual in his or her state capacity has specific regulatory, contractual, or supervisory authority over the private person). OSE Regs. § 1-81-17.

- Using state time, materials, or personnel to perform their outside work. General Statutes § 1-84 (c).

- Accepting—or being a member or employee of an entity that agrees to accept—compensation for representing others before 11 statutorily designated state agencies. General Statutes § 1-84 (d). The agencies include:

  - the Department of Banking,
  - the Claims Commissioner,
  - the Office of Health Care Access division within the Department of Public Health,
  - the Insurance Department,
  - the Department of Consumer Protection,
  - the Department of Motor Vehicles,
  - the State Insurance and Risk Management Board,
  - the Department of Energy and Environmental Protection,
  - the Public Utilities Regulatory Authority,
  - the Connecticut Siting Council, and
  - the Connecticut Real Estate Commission.

***The prohibition on being a "member or employee" applies to entities that are in the business of *representing others* for compensation before the listed agencies (law firms, accounting firms, etc.).

OTHER OUTSIDE EMPLOYMENT CONSIDERATIONS

There are two other outside employment prohibitions, but they apply only to a limited number of state employees and officials:

- Individuals holding designated positions at certain state regulatory agencies may not—while in state service—"negotiate for, seek or accept employment with any business subject to regulation by his agency." Also, *"[n]o business shall employ a present . . . public official or state employee in violation of this subsection."* General Statutes § 1-84b (c).

- Certain present employees and officials of the Department of Consumer Protection and the Department of Emergency Services and Public Protection may not "negotiate for, seek or accept employment with" entities engaged in Indian gaming operations. General Statutes § 1-84b (d) and (e).

OTHER CONSIDERATIONS

WRITTEN AFFIRMATION CONCERNING STATE ETHICS LAWS SUMMARY

General Statutes § 1-101qq contains three requirements with respect to the OSE's state ethics laws summary:

1. State agencies must provide large state construction or procurement contractors with the state ethics laws summary; and—before accepting their bids—must obtain written affirmation that their key employees read, understand, and agree to comply with those laws.

2. Large state construction or procurement contractors must, in turn:

   a. provide their subcontractors and consultants with the state ethics laws summary,

   b. obtain the same written affirmation as above from their subcontractors and consultants, and

   c. provide the affirmations to the state agency with which they have the contract—or face termination of the contract.

3. The state ethics laws summary must be included by reference in each contract with a contractor, subcontractor or consultant.

ETHICS AFFIDAVITS & CERTIFICATIONS FOR STATE CONTRACTS

The Office of Policy and Management has created ethics forms to help executive branch agencies comply with the State's contracting requirements. The forms include, for example, "Affirmation of Receipt of State Ethics Laws Summary" and "Gift and Campaign Contribution Certification." Copies of these forms and other updated information regarding state contractors can be found on the websites of the Office of Policy and Management and the Department of Administrative Services.

***NOTE:** The OSE does not have jurisdiction over the ethics affidavits and certifications. Questions concerning them should be directed to the Office of Policy and Management.*

ETHICS ENFORCEMENT

Enforcement of the Ethics Codes is initiated by a complaint, which is filed by the OSE Ethics Enforcement Officer or a member of the public. In most cases, a complaint by the Ethics Enforcement Officer is preceded by a confidential staff evaluation.

A two-stage process follows:

1. Confidential investigation and confidential probable cause hearing.

2. If probable cause is found, a public hearing to determine if a violation has occurred.

At any stage of this process, the OSE and the Respondent may negotiate a settlement.

After a finding or admission of a violation, the CEAB may order the Respondent to comply with the Ethics Codes in the future, file any required report or statement, and/or pay a civil penalty.

For failure to file a report, statement, or other information required by the Ethics Codes, the CEAB may, after a hearing, impose a civil penalty of up to $10 per day, with the aggregate penalty for any one violation being $10,000.

The OSE may refer matters to the Chief State's Attorney for criminal prosecution. An intentional violation of the Ethics Codes is a misdemeanor for the first violation, unless the individual has derived a financial benefit of at least $1,000. In that case, the violation is a class D felony.

The Attorney General may sue for up to three times the economic gain received through knowingly committing or knowingly profiting from a violation of the Code.

The "*Citizen's Guide to Filing a Complaint*," which is available on the OSE's website, gives a detailed overview of the complaint process and related confidentiality rules.

ANNEX D

FORM OF SUBLEASE AGREEMENT

SUBLEASE AGREEMENT

- by and between -

GATEWAY NEW LONDON LLC

- and -

NORTH EAST OFFSHORE, LLC

- and joined, for limited purposes by -

CONNECTICUT PORT AUTHORITY

- Dated as of –

_____, 2022

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (the "**Sublease Agreement**" or the "**Sublease**") is made as of the [__] day of _____, 2022 (the "**Effective Date**") by and, between GATEWAY NEW LONDON LLC ("**Gateway**"), a Delaware limited liability company, and NORTHEAST OFFSHORE LLC, a Delaware limited liability company ("**NEO**") and joined, for the limited provisions expressly provided herein by CONNECTICUT PORT AUTHORITY (the "**Authority**"), a quasi-public body corporate and politic and a political subdivision of the State of Connecticut (the "**State**") (each a "**Party**" and, collectively, the "**Parties**").

RECITALS

(A) The Authority was created pursuant to Sections 15-31a through 15-31i of Chapter 264a of the General Statutes of Connecticut to coordinate the development of Connecticut's ports and harbors, utilizing private and public investments in partnership with the Department of Economic and Community Development and other state, local and private entities and has statutory authorization to invest in, acquire, lease, purchase, own, manage, hold and dispose of real property and lease, convey or deal in or enter into agreements with respect to such property on terms necessary or incidental to carrying out its legislative purpose;

(B) The Site and the Port Facilities, each as defined herein, are State of Connecticut assets with property characteristics suitable for a wide variety of marine activities, including staging for off-shore wind development;

(C) NEO is an off-shore wind developer providing certain funding to support the redevelopment of the Site and the Port Facilities under the conditions set forth in that certain Harbor Development Agreement dated as of [month] __, 2020 among the Authority, NEO, and Gateway ("**Harbor Development Agreement**" or "**HDA**") (such modification of the Site and the Port Facilities being the "**Project**"), including the use of the Site and the Port Facilities as an offshore wind turbine generator ("**WTG**") hub;

(D) Gateway, a deep-water marine terminal operator in the business of operating ports, is a party to that certain Concession Agreement with the Authority, dated as of January 7, 2019 ("Concession Agreement") which confers certain rights to Gateway, including, pursuant to the provisions of Exhibit A attached hereto, the right to lease the contemplated Project to Persons subject to the terms of the Concession Agreement;

(E) NEO is an affiliate of "BSW" (as defined in the Concession Agreement), the Project is the "**BSW Development**", and the Harbor Development Agreement and this Sublease, respectively, are the "*contemplated harbor development agreement and sublease*" expressly anticipated for the BSW Development in Annex A to the Concession Agreement;

(F) NEO and Gateway desire to enter into this Sublease Agreement to govern the operation of certain offshore WTG and non-WTG uses of the completed Project immediately following Substantial Completion of the Project as defined in the Harbor Development Agreement; and

(G) The Authority is joining in this Sublease Agreement for the purposes of expressly consenting hereto, and having the benefits of and being bound by Section 6.5, Section 8, Section 10, Section 12.3, Section 13, Section 14, Section 16.1, Section 19.3, Section 21 and Exhibit A attached hereto hereof.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Sublease Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1
DEFINITIONS AND INTERPRETATION

1.1 Definitions.

In this Sublease Agreement, unless the subject or context otherwise requires, capitalized terms shall have the meanings given to them in Part I of Annex A.

1.2 Annexes and Schedules.

The Annexes and Schedules to this Sublease Agreement shall form an integral part hereof and, unless otherwise stated, references to the Annexes or Schedules herein shall be construed as references to Annexes and Schedules to this Sublease Agreement.

1.3 Rules of Interpretation.

Unless otherwise expressly provided herein, the rules of interpretation set forth in Part II of Annex A shall apply to this Sublease Agreement.

1.4 Sublease Agreement.

The following documents shall form this Sublease Agreement:

(a) this agreement, including its Annexes;

(b) the Schedules; and

(c) Exhibits.

1.5 Conflicts.

The several documents forming the Sublease Agreement are intended to be complementary and to describe and provide for a complete agreement. Each of the documents is an essential part of the agreement between the Parties, and a requirement occurring in one is as binding as though occurring in all.

Unless otherwise provided in this Sublease Agreement, any ambiguities or discrepancies between this Sublease Agreement and any other Project Agreement shall be resolved according to the following priority:

(a) any amendments to this Sublease Agreement, any of its Annexes, or Schedules;

(b) this Sublease Agreement, including its Annexes, Schedules and Exhibit A;

(c) the Harbor Development Agreement, including any amendments thereto; and

(d) the Concession Agreement, including any amendments thereto.

SECTION 2
TERM

2.1 Term.

This Sublease Agreement shall be for a period of ten (10) years commencing on the Occupancy Date, as defined in Section 2.2, and expiring at 11:59 p.m. EST on the day immediately preceding the tenth anniversary of the Occupancy Date unless otherwise extended in accordance with Section 2.3 or terminated early as expressly provided herein (the "**Term**").

2.2 Occupancy.

NEO's right to use the Project for Permitted Uses and obligation to pay Rent under this Sublease Agreement commences at 12:00 a.m. EST on the day immediately subsequent to the date of Substantial Completion under the Harbor Development Agreement ("**Occupancy Date**").

2.3 Extensions.

2.3.1 NEO shall have the right to extend this Sublease Agreement for an initial extension period of seven (7) years ("**Renewal Term**"), provided that the following conditions are met:

(a) NEO shall notify Gateway and the Authority in writing, of its intent to extend no later than twelve (12) months prior to the end of initial Term; and

(b) NEO shall submit to Gateway and the Authority, no later than nine (9) months prior to the end of the initial Term, documentation confirming the formula calculation (similar to CPI) of the change in Rent payable to the Authority with respect to such first extension period.

The Rent for the Renewal Term shall be adjusted by multiplying the Rent in effect at the end of the initial Term by a fraction, the numerator of which is the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, Northeast Region ("CPI") twelve (12) months prior to the end of the initial Term and the denominator of which is the CPI as of the Occupancy Date. No other changes to this Sublease Agreement, except for the Adjusted Rent (hereinafter defined), are contemplated during the Renewal Term.

2.3.2 NEO shall have the additional right, but not the obligation, to extend this Sublease Agreement beyond the Renewal Term (the "**Extended Renewal Term**") for a time period to be agreed by NEO and the Authority provided that:

(a) NEO shall notify Gateway and the Authority, in writing, of its intent to request an extension no later than twelve (12) months prior to the end of the Renewal Term; and

(b) In the event that NEO and the Authority agree to such Extended Renewal Term, NEO shall submit to Gateway, no later than nine (9) months prior to the end of the Renewal Term, documentation demonstrating agreement between NEO and the Authority on Adjusted Rent to be in effect for any period beyond the Renewal Term, which Adjusted Rent, in Gateway's reasonable judgment, does not materially and adversely affect Gateway's revenues or liabilities provided, further, that if Gateway does not object in writing to such adjusted Rent within ten (10) business days of such submission by NEO to Gateway, then Gateway shall be deemed to have waived any such objection; and

(c) NEO, Gateway and Authority shall agree on the duration of the extension and any other terms and conditions of the Extended Renewal Term.

NEO, Gateway and Authority mutually covenant and agree to use diligent commercial efforts to agree upon each of the foregoing. Should no such Extended Renewal Term be agreed upon, the Term of this Sublease shall expire on the last day of the Renewal Term, unless otherwise previously terminated pursuant to this Sublease.

SECTION 3
LEASE OF PORT FACILITIES

3.1 Lease.

3.1.1 Subject to the terms and conditions of this Sublease Agreement and as more particularly set forth in and subject in all events to Section 21 below, Gateway hereby subleases to NEO and NEO hereby subleases from Gateway the Site, for the Term. Gateway hereby covenants and agrees that NEO and its designated OEMs shall have, subject to the terms hereof, the right to occupy and utilize the Site for operations and activities associated or conducted in connection with the pre-assembly, assembly, construction, mobilization, deployment, and commissioning of one or more WTG projects, and any other wind industry related activities (collectively, the "**Permitted Uses**") during the Term, Renewal Term, and Extended Renewal Term. NEO shall obtain and maintain all Regulatory Approvals and all other permits, authorizations, and approvals required to conduct the Permitted Uses, other than those required to be maintained by Gateway under the Concession Agreement. NEO shall not use the Site and Port Facilities for any uses other than the Permitted Uses.

3.2 NEO Local Representative.

3.2.1 NEO shall have the right to maintain onsite a NEO Local Representative (the "**NEO Local Representative**") and associated staff and Gateway shall not unreasonably withhold or delay consent to a request of the NEO Local Representative to locate a trailer on the

Site. The NEO Local Representative will have the following rights/responsibilities at the Port Facilities:

(a) Coordinate vessel arrival and departure scheduling for the Permitted Uses, and other Port Facilities operations with Gateway, the Authority and applicable local, state, and federal entities; and

(b) Coordination of use of the Port Facilities for the Permitted Uses in accordance with this Sublease.

3.3 Shared Rights with Concessionaire.

3.3.1 NEO and its designated OEMs have the right to use the Site and Port Facilities for the Permitted Uses during Active Periods, on an exclusive basis (except as set forth in Section 5.4.2.1 below), and using Gateway's services as set forth in Section 7.2.3 below, coextensive in area with, but distinct from, Gateway's rights and obligations under the Concession Agreement.

3.3.2 As more particularly set forth in Section 21, a termination of the Concession Agreement, for any reason, does not impair NEO's right to occupy the Site and use the Port Facilities as granted in this Sublease Agreement.

3.4 Existing Easements and Agreements.

3.4.1 NEO shall maintain, at all times, reasonable access to the Site and the Port Facilities as well as access to all utilities on the Site for all Persons known by NEO to have such rights under all easements, agreements and licenses encumbering or affecting the Port Facilities. NEO agrees not to act in contravention of any such easements, agreements and licenses. Easements, agreements or licenses granted by Gateway or the Authority after the Occupancy Date shall not unreasonably interfere with NEO's Permitted Uses. Gateway agrees that NEO shall have no liability for incidents arising out of the use of the Port Facilities by any third party with the exception of any Subcontractors, Affiliates, agents, or invitees of NEO.

3.5 Compliance with Applicable Law.

3.5.1 NEO shall comply with all Applicable Laws with respect to this Sublease and the Port Facilities or the use or occupancy thereof, as further described in Section 21.5 and Schedule 4.

3.5.2 NEO shall, if necessary, modify its use of the Port Facilities to restore the Port Facilities to compliance with Applicable Laws relating to the use or occupancy of the Port Facilities, whether said compliance is ordered or directed to or against the Authority, Gateway, its Subcontractors or NEO.

3.5.3 NEO shall at all times, and at NEO's sole expense, comply with the conditions and requirements of the United States Coast Guard.

3.6 Casualty.

3.6.1 In the event (i) that the Port Facilities, any part thereof or access thereto, shall be damaged by fire or other insured casualty and (ii) NEO continues to have reasonably convenient and uninterrupted access to and use of the Port Facilities, then the Port Facilities shall not thereby be rendered unfit for use and occupancy by NEO, provided repairs to the Port Facilities can be completed within two (2) months ("**Repair Deadline**") from the date on which the damage occurred. In the event that such repairs cannot be completed by such Repair Deadline then an equitable portion of the Rent payable by NEO shall be abated for the period after the Repair Deadline and until the completion of such repairs. If the repairs are not completed within one year of such damage, NEO may, at its election, terminate the obligations of NEO hereunder.

3.6.2 With respect to any such damage arising after the Occupancy Date, Gateway shall oversee and in compliance with the Concession Agreement cause its Subcontractor to oversee repairs associated with this Section 3.6 with reasonable diligence and applying to the same proceeds of NEO's, Gateway's or their respective Subcontractors' insurance coverages.

3.7 Quiet Enjoyment.

3.7.1 Provided that there are no NEO Events of Default existing and continuing, NEO shall have the right to peaceably and quietly enjoy the Port Facilities, in accordance with this Sublease Agreement and the Concession Agreement, free from any demands of any Person claiming any rights by, through or under the Authority or Gateway, except as otherwise provided herein.

3.8 Environmental Compliance.

3.8.1 NEO shall (i) not use the Port Facilities or Site for any dangerous, noxious or offensive trade or business nor cause or maintain a nuisance (ii) not maintain or store any Hazardous Substances at the Port Facilities or Site, except to the extent necessary to carry out its business operations, (iii) at all times cause its operations at the Site and the Port Facilities to comply with all Environmental Laws, except that NEO shall not be responsible for environmental conditions existing on the Occupancy Date or caused by third parties not related to, operating on behalf or in connection with, or otherwise under the control or direction of NEO into compliance with Environmental Laws, and (iv) keep the Site and the Port Facilities free of any lien imposed pursuant to any Environmental Laws arising or as a result of the actions of or failure to act by NEO or any third parties related to, operating on behalf or in connection with, or otherwise under the control or direction of NEO.

3.9 Damage by NEO or OEM.

NEO shall promptly repair any damage to the Port Facilities caused by NEO or an OEM, ordinary wear and tear excepted.

3.10 Removal by NEO.

Before the end of each Active Period, and before the end of the Term (unless extended), the Renewal Term (unless extended) or the Extended Renewal Term, as applicable, NEO shall or

shall cause the OEM, at its sole cost and expense, to remove all equipment, supplies and other property (including any trash or debris) from the Site.

SECTION 4
SERVICE RATES AT PORT FACILITIES, DESIGNATION OF OEMS, AND EXPECTED USE REPORTS

4.1 Role of OEM.

The OEMs or their contractor / shipping agent will be the responsible party for requesting services at the Port Facilities during Active Periods and shall contract directly with Gateway for services under the Concession Agreement with the rates to be charged as set forth in **Annex B.**

4.1.1 NEO shall keep Gateway regularly updated from time to time of the identities of each OEM expected to utilize the Port Facilities.

4.2 NEO Expected Use Report.

4.2.1 Not later than January 1, April 1, July 1 and October 1 during each year of this Sublease Agreement, NEO shall provide to Gateway and the Authority a written report ("**Expected Use Report**") covering the following:

(a) The start and expected end date of any then existing Active Period;

(b) The start and end date of any then existing Idle Period, including whether such Idle Period is to be a Long-Term Idle Period;

(c) For any then existing or pending Active Period, the arrival, departure, loading and unloading dates of any OEM related vessels expected during the next three (3) months of activity; and

(d) Revisions to any start or end date of any Active Period or Idle period, since the date of the last report.

4.2.2 In the event that any start or end date of any Active Period or Idle period set forth in the revised Expected Use Report proves to be materially erroneous, Gateway shall be compensated in the manner set forth in Section 6.3.

SECTION 5
ACTIVE PERIODS

5.1 Active Period Notification Requirements.

5.1.1 All periods in which NEO or its OEMs are using the Port Facilities and the Site for Permitted Uses shall be deemed an "**Active Period**" hereunder. NEO shall have the right to resume an Active Period after any Idle Period or Long-Term Idle Period in accordance with the terms of this Sublease Agreement.

5.1.2 In the case of an Idle Period that has not been designated a Long-Term Idle Period, NEO will provide no less than twelve (12) months' notice to Gateway ("**Active Period Advance Notice**") that it will resume an Active Period, unless such shorter period is consented to by Gateway (per **Annex A** paragraph (n). The withholding of such consent by Gateway shall not be deemed unreasonable if such shorter notice will materially adversely impact the previously contracted non-WTG use of the Port Facilities by Gateway, and the conditioning of such consent by Gateway upon Gateway being made whole for any additional costs for relocating customers or stored cargo shall not be deemed unreasonable. The Active Period Advance Notice may be by, but is not limited to, notice via the Expected Use Report. The Active Period Advance Notice can be provided at any time after NEO has identified the Idle Period Start Date.

5.1.3 During the continuation of a Long-Term Idle Period, the Active Period Advance Notice shall not specify a commencement date of an Active Period less than twenty-four (24) months after the commencement of the applicable Long-Term Idle Period, without the consent of Gateway (per **Annex A** paragraph (n). The withholding of such consent by Gateway shall not be deemed unreasonable if such shorter notice will materially adversely impact the previously contracted non-WTG use of the Port Facilities by Gateway, and the conditioning of such consent by Gateway upon Gateway being made whole for any additional costs for relocating customers or stored cargo shall not be deemed unreasonable.

5.2 Active Period Pre-Assembly Mobilization.

5.2.1 For any Active Period, NEO shall provide Gateway with two (2) months' notice of any pre-assembly mobilization for an upcoming Active Period, and Gateway shall cause the Port Facilities to be made ready for occupation by the OEMs for such pre-assembly mobilization no less than three (3) months prior to start of such Active Period, and shall regularly update NEO and the OEMs on such activities. For example, for an Active Period to commence on January 1, 2027, an Active Period pre-assembly mobilization notice given by NEO as of August 1, 2026 shall trigger the obligation of Gateway to have the Port Facilities ready for pre-assembly mobilization as of October 1, 2026. NEO and the OEMs shall, subject to reasonable rules and regulations established by Gateway, be able to likewise utilize the Site for mobilization activities during such two (2) month notice period to the extent such use leaves sufficient storage and work space on the Site for Gateway's ongoing activities until the pre-assembly mobilization three (3) month period begins.

5.3 NEO and Concessionaire Obligations During Active Period.

5.3.1 NEO covenants and agrees to use its diligent commercially reasonable efforts to maximize utilization of the Port Facilities for WTG activities during all Active Periods, including, without limitation;

(a) Maximizing utilization of the Port Facilities and Gateway for WTG staging and load-out;

(b) ensuring Gateway has close engagement with the OEMs; and

(c) providing the Expected Use Report on a quarterly basis.

5.3.2 Gateway covenants and agrees to use its diligent commercially reasonable efforts to establish, maintain, and document a flexible and prudent cost structure throughout Active Periods and Idle Periods.

5.4 Concessionaire Revenue/Expense Reporting; Reports; Shortfall During Active Operations.

5.4.1 **Quarterly Reports.** Gateway shall provide to NEO and the Authority, promptly upon the preparation and issuance thereof, a complete copy of the quarterly income and expense reports provided to the Authority under Section 10.4 of the Concession Agreement ("**Gateway Quarterly Reports**"). A sample Gateway Quarterly Report is attached as **Annex C**, provided that this sample's attachment shall not restrict Gateway's right to change accounting systems and such report's format and content from time to time. Gateway shall provide supporting backup documentation on the constituent elements of the Gateway Quarterly Report as may be reasonably requested from time to time by NEO.

5.4.2 **Stand-By Fee.** Not later than one (1) month prior to the beginning of each Active Period (subject to timely receipt by Gateway from NEO of reasonably requested information regarding the wind construction campaign schedule and other details), Gateway will reasonably project revenues and its direct costs for the immediately following two years and provide a copy thereof to NEO and the Authority ("**Initial Two Year Active Period Projection**"). To the extent that such Initial Two Year Active Period Projection projects Gateway generating less than either (a) $5 million of Gateway Gross Revenue in the first year of such Active Period or (b) $10 million of cumulative Gateway Gross Revenue in the first two years of such Active Period, or both, then NEO shall elect between the following options:

5.4.2.1 Allow Gateway to receive other, non-WTG cargo in addition to offshore wind equipment, while recognizing that NEO will have priority berthing and storage rights based on its vessel schedule, provided that NEO shall not be able to elect this option with respect to any period in which Gateway is not provided sufficient access to storage space at the Port Facilities to render handling of such non-WTG cargo commercially feasible; or

5.4.2.2 Retain exclusive use of the Port Facilities, but pay to or receive from Gateway (directly or via the OEMs) the GT Revenue Shortfall Fee. The "**GT Revenue Shortfall Fee**" with respect to any quarterly period shall mean the amount, positive or negative, by which Gateway's actual prudently incurred direct costs as set forth in the applicable Gateway Quarterly Reports exceed (or are exceeded by) Gateway's actual Gross Revenues for such period. Each such calculation of the GT Revenue Shortfall Fee shall include a cumulative calculation in arrears for all prior quarters in such two year period, with quarterly payments and credits set by the cumulative calculation. The GT Revenue Shortfall Fee shall be paid and credited quarterly in arrears during the Initial Two Year Active Period Projection, within thirty (30) days after receipt of the calculation.

5.4.3 **GT Revenue Shortfall Forecast After Initial Two Years.** Gateway will continue to reasonably project revenues and its direct costs for portions of each Active Period following the initial two (2) years, and shall timely provide NEO and the Authority with such

projections ("**Later Active Period Projection**"). In the event that a Later Active Period Projection reasonably projects Gateway generation of less than $10 million of cumulative revenue in a consecutive two-year period, the Parties agree to:

5.4.3.1 Use commercially reasonably efforts to evaluate the cause or causes or the anticipated revenue shortfall, and to develop a plan to address those causes in a manner intended to avoid shortfalls going forward.

5.4.3.2 Such a plan may or may not require an amendment to the Sublease Agreement. If an amendment is needed, the Parties will work cooperatively to execute such on a timely basis in order to avoid delaying any later following Active Period;

If the Parties are not successful addressing the causes of a Gateway revenue shortfall prior to the commencement of the Active Period in question, the Parties will revert to same structure used in the first two (2) years of active operations under Section 5.4.2, but will continue to negotiate in good faith until a long-term solution is identified to their mutual reasonable satisfaction.

SECTION 6
IDLE PERIODS

6.1 Idle Period Notification.

6.1.1 During periods where NEO is not using the Port Facilities for Permitted Uses (each an "**Idle Period**"), NEO shall have the right and obligation to notify Gateway and the Authority in advance. No later than twelve (12) months prior to the expected end of any Active Period, NEO will notify Gateway and the Authority of the date that it expects to end current operations ("**Idle Period Advance Notice**"). The Idle Period Advance Notice may be by, but is not limited to, notice via the Expected Use Report.

6.1.2 NEO will update its Idle Period Advance Notice six (6) months and three (3) months prior to the expected end date of its current offshore wind operations.

6.1.3 When NEO provides Gateway and the Authority with Idle Period Advance Notice it will also provide Gateway and the Authority with a good faith estimate of the duration of the applicable Idle Period.

6.1.4 Each respective Idle Period shall begin ("**Idle Period Start Date**") on the earlier of the date specified in the Idle Period Advance Notice or the actual date the Site is vacated by NEO and its OEM.

6.2 Long-Term Idle Period Notification.

6.2.1 NEO shall have the right from time to time to designate by notice to Gateway and the Authority ("**Long-Term Idle Period Advance Notice**") an Idle Period that it expects to persist longer than twenty-four (24) months ("**Long-Term Idle Period**").

6.2.2 The Long-Term Idle Period Advance Notice may be by, but is not limited to, notice via the Expected Use Report. Notification of a Long-Term Idle Period may be made

independently from notification of an Idle Period. Without limiting the foregoing, notification of a Long-Term Idle Period may be made during an Active Period.

6.2.3 In each case, the Long-Term Idle Period will commence no earlier than twelve (12) months after the Long-Term Idle Period Advance Notice has been given ("**Long-Term Idle Period Start Date**").

6.3 Short-Term Idle Period Fees.

6.3.1 In the case of an Idle Period that has not been designated a Long-Term Idle Period (each a "**Short-Term Idle Period**"), NEO will pay Gateway the Gateway Short-Term Idle Period Fee.

6.3.2 The "**Gateway Short-Term Idle Period Fees**" will be equal to and calculated quarterly based on the Gateway Idle Period Direct Costs during the period commencing on the Idle Period Start Date for that Short-Term Idle Period and ending upon the earlier of (a) the resumption by NEO of an Active Period or (b) a Long-Term Idle Period Start Date. After the end of each three (3) month anniversary of the Idle Period Start Date of each Short-Term Idle Period, and after the last day of that Short-Term Idle Period, Gateway shall promptly calculate and deliver to NEO a cumulative calculation of the amount, positive or negative, by which the Gateway Idle Period Direct Costs exceed (or are exceeded by) the Gateway Idle Period Gross Revenues during that Short-Term Idle Period. A positive excess of Gateway Idle Period Direct Costs over the Gateway Idle Period Gross Revenues shall be the Gateway Short-Term Idle Period Fee owed by NEO for such quarter. A negative excess (i.e. when Gateway Idle Period Direct Costs are exceeded by the Gateway Idle Period Gross Revenues) shall be a credit owed by Gateway to NEO for such quarter. Each such quarterly calculation shall also include a cumulative calculation of fees and credits with respect to all prior quarterly portions of such Short-Term Idle Period. NEO shall make payment to Gateway of any net cumulative Gateway Short-Term Idle Period Fees within thirty (30) days after receipt of the calculation from Gateway, and Gateway shall make payment to NEO of any net cumulative Gateway Short-Term Idle Period Fees credits (but only up to an amount that does not exceed the cumulative Gateway Short-Term Idle Period Fees, if any, received during such Short-Term Idle Period) owed within thirty (30) days after the end of the applicable Short-Term Idle Period.

6.3.3 No Gateway Short-Term Idle Period Fee shall be due with respect to any Long-Term Idle Period.

6.3.4 Gateway will utilize best commercially reasonable efforts to minimize costs and maximize revenues during the Idle Period.

6.3.5 Except for the Gateway Short-Term Idle Period Fee, and Section 5.4.2.2, NEO will owe no other fees or payments to Gateway during any Idle Period.

6.4 Third Party Remarketing for Idle Periods.

6.4.1 For each pending or continuing Idle Period, NEO will collaborate with Gateway and will use their best commercially reasonable efforts to remarket the Port Facilities to other customers during the Idle Period, with preference given to other offshore wind developers.

6.4.2 NEO and Gateway will collaborate to establish a sub-Sublease fee structure payable to NEO ("**NEO sub-Sublease Fees**") from other Port Facilities users who desire to sublease or otherwise utilize all or a portion of the Port Facilities during an Idle Period, with the goal of providing the maximum available market rate NEO sub-Sublease Fees. Payment of NEO sub-Sublease Fees to NEO shall not relieve users of the Port Facilities from paying to Gateway the fees otherwise due to Gateway under the Concession Agreement. Any dispute between NEO and Gateway about the rate of such NEO sub-Sublease Fees shall be resolved under Section 17.

6.5 Shared Revenue During Idle Periods.

6.5.1 NEO is not relieved of its Rent obligation to the Authority during Idle Periods.

6.5.2 Any NEO sub-Sublease Fees paid by other customers during any Idle Period will be payable to NEO, not Gateway or the Authority.

6.5.3 NEO sub-Sublease Fees paid by other customers to NEO in excess of $4,000,000 per annum will be shared with the Authority in proportion to the Authority/NEO Capital Cost Ratio, the payment of which Authority share shall be deemed Rent due hereunder. NEO shall provide supporting documentation for all such NEO sub-Sublease Fees in form and substance reasonably acceptable to the Authority.

6.5.4 Except for the NEO sub-Sublease Fees, all other fees payable by other customers during an Idle Period will be payable by these other customers to Gateway; NEO will not share in these revenues.

SECTION 7
GATEWAY OBLIGATIONS

The obligations and responsibilities of Gateway are as follows:

7.1 General Responsibilities.

7.1.1 Gateway will discharge and fulfill all Concessionaire obligations under the Concession Agreement, as modified by Section 10 hereof, in addition to the specific responsibilities expressly applicable to Gateway under the Sublease.

7.2 Operation, Repair, and Maintenance.

7.2.1 Gateway shall perform, at Gateway's sole cost and expense, any actions necessary to provide for the comprehensive administration, management, operation, maintenance, repair, and improvement of the Port Facilities and all other obligations assumed by Gateway under the Concession Agreement, all in accordance with the Port Operations Manual, the Port Standards, Good Industry Practice, all Applicable Laws, the terms of the Concession Agreement, (as modified by Section 10 hereof) and this Sublease Agreement.

7.2.2 NEO may, but shall not be required (except as may be otherwise expressly required by the Harbor Development Agreement) to make any improvement on or to the Site or

Port Facilities during the Term. Any NEO improvements to the Site or Port Facilities (other than the initial Authority improvements for WTG set forth on **Schedule 1**) requires both Gateway's and the Authority's consent (per **Annex A** paragraph (n).

7.2.3 Gateway shall provide the specific services ("NEO Services") for NEO and the OEMs as set forth on Annex B.

7.2.4 Any fees charged to or collected from NEO or the OEMs by Gateway for the NEO Services shall be as set forth in Annex B, notwithstanding the Concession Agreement.

7.2.5 NEO's and the OEMs' respective Subcontractors, Affiliates, agents, or invitees shall have the right to access the Site and Port Facilities during the Term, after timely reasonable prior notice using reasonable efforts to minimize interference with any operations then being conducted on or about the Site. To the extent that any such Persons exercise access rights pursuant to this Section, they shall strictly abide by any safety and operational requirements of the Site at the instruction of Gateway's employees working at the Site and the Terminal Operation Rules and Regulations issued by Gateway from time to time.

7.3 Utilities.

7.3.1 Except as otherwise set forth on Annex B, Gateway shall pay or shall cause to be paid all costs and expenses for the following utilities used or consumed at the Site: water, sewer, electric, oil, and gas.

7.3.2 Gateway does not warrant that any of the utilities will be free from interruptions caused by any Force Majeure event or any other event beyond the control of Gateway.

7.3.3 Gateway shall, at its own expense, maintain, service, and repair all utility lines and appurtenant improvements including, but not limited to, water mains and hydrants, and sewer and gas lines existing on the Site as of the Occupancy Date, provided such maintenance, service and repair are not the result of the fault or negligence of NEO or its Subcontractors, Affiliates, agents, or invitees.

7.4 Signage.

7.4.1 To the extent permitted by Applicable Law, Gateway (a) shall provide signs on State Pier Road indicating the approach to the Port Facilities, together with signs designed to direct traffic within the area and (b) reserves the right to erect, remove or change directional or informational signs on State Pier Road and other highways as it deems necessary and desirable for the convenience of the traveling public.

7.4.2 NEO shall be permitted to erect, at its sole cost and expense, reasonable and customary signs on or adjacent to the Port Facilities identifying NEO. The signs, if so erected, must state the corporate name of NEO and conform to Applicable Law.

7.5 Gateway Capital Improvements.

7.5.1 Pursuant to, and as defined in, Sections 9.4 and 9.5 of the Concession Agreement, as modified by Section 10 hereof, Gateway shall perform the Capital Improvements required thereby, provided that no such Capital Improvement by Gateway may materially and adversely interfere with NEO's Permitted Uses hereunder.

7.6 Notice of Inspections.

7.6.1 Gateway shall give NEO timely notice of any general inspection or any other inspection of Port Facilities necessary to comply with Applicable Laws or otherwise effectuate the terms of the Concession Agreement, except where prohibited by a governmental authority or when circumstances do not permit.

7.6.2 NEO and the Authority and their respective representatives shall be entitled to attend any inspection of the Port Facilities upon giving reasonable notice to Gateway (whether or not it is entitled to receive or has received notice thereof in accordance with Section 7.6.1 above), except where prohibited by a governmental authority or when circumstances do not permit.

SECTION 8
RENT PAYMENTS AND INTEREST

NEO will remit all monies owing and due under this Section 8 to the Authority and not to Gateway.

8.1 Rent.

8.1.1 Beginning on the Occupancy Date, and as more particularly set forth in Section 8.1.1(c) of the Harbor Development Agreement, for every year thereafter during the Term, NEO shall make payments directly to the Authority for the use, subject to the Concession Agreement, of the Site and the Port Facilities ("**Rent**"). Payments of the Rent include all applicable taxes thereon, however, the Rent payable hereunder does not include any amount due and payable or owing for real or personal property taxes and NEO shall be solely responsible for the payment of all such real or personal property taxes. Upon not less than ten (10) days prior notice to the Authority, NEO shall have the right to appeal the amount of such real and personal property taxes and the Authority shall not object to such appeal. Subject to adjustment as set forth in Sections 5.2.4, 5.2.5, 8.1.1, 8.4.4, 14.1 and 14.2 of the Harbor Development Agreement, the Rent shall be Two Million US Dollars ($2,000,000) per annum, and shall be made in four (4) installments of five hundred thousand US Dollars ($500,000). The initial installment of Rent shall be first paid on or before the Occupancy Date. All subsequent Rent shall be made in advance, on or before the first day of every third month following the Occupancy Date. All Rent and Adjusted Rent payments shall initially be payable and deliverable as follows (the Authority reserving, however, the right to modify Rent payment instructions): to [insert Authority wiring instructions].

8.1.2 For duration of the Renewal Term, or anytime thereafter during which this Sublease Agreement is in effect (each an "**Extended Term**"), NEO shall pay an aggregate fixed payment of the Rent as adjusted by NEO and the Authority consistent with Section 2.3.1 for the

Renewal Term and Section 2.3.2 for an Extended Renewal Term (the "**Adjusted Rent**"). Adjusted Rent shall be paid on or before the first day of every third month following the effective date of the Extended Term.

8.1.3 Notwithstanding anything to the contrary in Section 8.1.1, upon commencement of this Sublease Agreement NEO shall (i) pay the Authority one (1) year's Rent in advance for the first (1st) year of the Term; and (ii) deliver to the Authority a clean, irrevocable and unconditional standby letter of credit (the "**Letter of Credit**") from a financial institution (the "**Issuing Bank**") containing the terms set forth in Section 8.1.4 below and otherwise in customary form (with both such form and the Issuing Bank being reasonably satisfactory to the Authority). The Letter of Credit shall serve as a security deposit hereunder (the "**Security Deposit**"), and shall be in an amount equivalent to six (6) months' Rent (which is expected to be $1,000,000 unless Rent is reduced pursuant to the HDA).

8.1.4 NEO shall deliver to the Authority the Letter of Credit as security for the faithful performance and observance by NEO of the terms, provisions and conditions of this Sublease Agreement. NEO agrees that in the event (i) of the occurrence of an Event of Default or (ii) in the performance of any of NEO's obligations under this Sublease Agreement, including the payment of any item of Rent or Adjusted Rent due to the Authority, the Authority may draw under the Letter of Credit the whole or any part of such amounts due, to the extent required for the payment of any Rent or Adjusted Rent or any other sum as to which NEO is in default in paying the Authority, or for any sum that the Authority may expend or may be required to expend by reason of the such default (including any damages or deficiency accrued before or after summary proceedings or other re-entry by the Authority). If the Authority applies or retains any portion or all of the proceeds of the Letter of Credit, NEO shall forthwith restore the amount so applied or retained by delivering an additional or new Letter of Credit so that, at all times, the amount of the security deposit shall be the then required full amount. Provided there is no uncured Event of Default, any balance of the proceeds of the Letter of Credit held by the Authority and not used, applied or retained by the Authority as above provided, and any remaining Letter of Credit, shall be returned to NEO after the expiration of the Term and after NEO surrenders possession of the Site and Port Facilities in the condition required under the Sublease Agreement.

The Letter of Credit shall have a term of not less than one year, be in form and content reasonably satisfactory to the Authority, be for the account of the Authority and be in the amount of the Security Deposit. The Letter of Credit shall provide that:

(1) The Issuing Bank shall pay to the Authority or its duly authorized representative an amount up to the face amount of the Letter of Credit upon presentation of the Letter of Credit and a sight draft in the amount to be drawn;

(2) The Letter of Credit shall be deemed to be automatically renewed, without amendment, for consecutive periods of one year each during the Term, unless the Issuing Bank sends written notice (the "**Non-Renewal Notice**") to the Authority by certified or registered mail, return receipt requested, at least thirty (30) days prior to the expiration date of the Letter of Credit, to the effect that it elects not to have such Letter of Credit renewed;

(3) The Letter of Credit delivered in respect of the last year of the Term shall have an expiration date of not earlier than sixty (60) days after the Expiration Date; and

(4) The Letter of Credit shall be transferable by the Authority to any successor or purchaser.

The Authority, after receipt of the Non-Renewal Notice, shall have the right to draw the entire amount of the Letter of Credit and to hold the proceeds as a cash Security Deposit. The Authority shall release such proceeds to NEO upon delivery to the Authority of a replacement Letter of Credit complying with the terms hereof.

NEO covenants that it will not assign or encumber, or attempt to assign or encumber, the Letter of Credit held hereunder, and that neither the Authority nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment, or attempted encumbrance. In the event that any bankruptcy, insolvency, reorganization or other debtor-creditor proceedings shall be instituted by or against NEO, its successors or assigns, or any guarantor of NEO hereunder, the security shall be deemed to be applied to the payment of the Rent and Adjusted Rent due to the Authority for periods prior to the institution of such proceedings and the balance, if any, may be retained by the Authority in partial satisfaction of the Authority's damages.

8.1.5 In the event NEO fails to vacate the Site or Port Facilities after expiration of or termination of this Sublease Agreement, without the express written consent of Gateway to remain, NEO shall pay, effective upon the expiration of the Rental Term 125% of Rent on a monthly basis. No holding over by NEO after the Term shall be construed to extend the Term.

8.2 Interest.

Unless otherwise provided for in this Agreement, any Party in default of payment of any amount due hereunder shall pay interest thereon to the Party to whom the payment is owing at the following rate: a rate of two (2) per cent per annum above Prime Rate commencing thirty (30) days from the applicable default. Such interest shall be computed on the amount due on a daily basis from the due date until the relevant amount together with accrued interest is fully paid by the defaulting Party.

8.3 Currency.

All disbursements or payments by or to a Party shall be denominated and collected in United States Dollars in immediately available funds.

SECTION 9
REPRESENTATIONS AND WARRANTIES

9.1 NEO Representations and Warranties.

NEO hereby represents and warrants, as of the Effective Date, that:

9.1.1 It is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of NEO's organization and duly qualified to conduct business in the State;

9.1.2 NEO has the power and authority to enter into this Sublease Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by NEO in accordance with the terms hereof;

9.1.3 This Sublease Agreement is legally valid and binding upon NEO and does not require any further approval or consent or registration in any form in order to give full force and effect thereto;

9.1.4 The execution and delivery of this Sublease Agreement by NEO, the consummation of the transactions contemplated hereby and the performance by NEO of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of NEO under (a) any Applicable Law, (b) any material agreement, instrument or document to which NEO is a party or by which it is bound or (c) the articles, bylaws or governing documents of NEO;

9.1.5 NEO does not require any consent to be obtained, no notice to be given to, or filing to be made with any Person (including any Relevant Authority) in connection with the execution and delivery by NEO of this Sublease Agreement or the consummation of the transactions contemplated hereby, except for such consents that have been obtained and notices of filings that have been given as of the Effective Date or such other consents that are not required to be obtained as at the Effective Date and are expected to be obtainable following the Effective Date; and

9.1.6 NEO is not aware, after making due inquiries, of any proceedings, actions or claims, pending or threatened, against or otherwise involving NEO that would prejudice, in any way, NEO's ability to fulfill its or their respective obligations under this Sublease Agreement.

9.2 Gateway Representations and Warranties.

Gateway hereby represents and warrants, as of the Effective Date, that:

9.2.1 Gateway has all necessary rights in the Site and Port Facilities to effectuate the specific terms of this Sublease Agreement;

9.2.2 Gateway is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of Gateway's organization and duly qualified to conduct business in the State;

9.2.3 Gateway has the power and authority to enter into this Sublease Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by Gateway in accordance with the terms hereof;

9.2.4 This Sublease Agreement is legally valid and binding upon Gateway and does not require any further approval or consent or registration in any form in order to give full force and effect thereto;

9.2.5 The execution and delivery of this Sublease Agreement by Gateway, the consummation of the transactions contemplated hereby and the performance by Gateway of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of Gateway under (a) any Applicable Law, (b) any material agreement, instrument or document to which Gateway is a party or by which it is bound or (c) the articles, bylaws or governing documents of Gateway;

9.2.6 Gateway does not require any consent to be obtained, notice to be given, or filing to be made with, any Person (including any Relevant Authority) in connection with the execution and delivery by Gateway of this Sublease Agreement or the consummation of the transactions contemplated hereby, except for such consents that have been obtained and notices of filings that have been given as of the Effective Date or such other consents that are not required to be obtained as at the Effective Date and are expected to be obtainable following the Effective Date; and

9.2.7 Gateway is not aware, after making due inquiries, of any proceedings, actions or claims, pending or threatened, against or otherwise involving Gateway that would prejudice, in any way, Gateway's ability to fulfill its or their respective obligations under this Sublease Agreement.

SECTION 10
SUSPENSION OF CERTAIN CONCESSION AGREEMENT PROVISIONS

10.1 Suspension.

Commencing upon the execution of the Harbor Development Agreement, and continuing for the entire Term of the Sublease Agreement (as the same may be extended), the Authority, Gateway and NEO mutually agree that certain provisions of the Concession Agreement are hereby suspended and/or modified as set forth on Exhibit A attached hereto, the terms of which are hereby expressly incorporated by this reference.

SECTION 11
FORCE MAJEURE

11.1 Force Majeure.

"Force Majeure" means (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies; (ii) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war; (iii) riot, commotion, disorder, strike or lockout by Persons not a Party to this Sublease Agreement; (iv) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the use of such munitions, explosives, radiation or radio-activity by a Party, its Affiliates, Employees or Subcontractors; (v) acts of god (such as extreme weather, tornado, flood, hurricane or natural catastrophes such as earthquake and volcanic

activity), in each case only to the extent such event or circumstance is an exceptional event or circumstance; (vi) changes to existing laws, codes or regulations governing construction of the Project that have a material adverse impact on the Project; and, in each case,

(a) which is beyond the control of the Party seeking to invoke Force Majeure; and

(b) which such Party could not reasonably have avoided, prevented or overcome through the exercise of due diligence; and

(c) which is not substantially attributable to such Party.

Without limiting the generality of the foregoing, for purposes of this Sublease Agreement, the term "Force Majeure" excludes: (A) the Authority's failure to procure and secure the Permits necessary to complete the Work or additional funds to cover amounts to be funded by the Authority under Sections 8.2 or 8.4 of the Harbor Development Agreement, (B) changes in financial markets or market conditions generally, (C) events or circumstances within the conditions required to be designed against or provided for in accordance with the Harbor Development Agreement, (D) the occurrence of any shortages of manpower or supplies; or (E) any delay, default or failure (direct or indirect) in obtaining supplies, or of any OEM, Subcontractor or worker performing any work or any other delay, default or failure (financial or otherwise) of an OEM, Subcontractor, vendor or supplier, (F) change orders to the LQRB (as defined in the Harbor Development Agreement) as a result of design errors or omissions.

Notwithstanding the above, an event of Force Majeure shall not apply to (i) the failure of the Authority to obtain the Permits, (ii) the obligation of NEO to make Rent, Adjusted Rent and other payments to the Authority due under this Sublease Agreement and (iii) the obligation of NEO to make the payments set forth in Section 8.1.3 of the Harbor Development Agreement.

11.2 Notice of Force Majeure.

If any Party hereto claims to be affected by an event of Force Majeure as defined in Section 11.1, it shall give notice within five (5) Business Days of the occurrence thereof to the other Parties. The affected Party shall likewise immediately give notice to the other Parties within five (5) Business Days when the event of Force Majeure has ceased.

11.3 Excuse of Performance.

11.3.1 Should an event of Force Majeure prevent the total or partial performance of any of the obligations of either Party under this Sublease Agreement, then the Party claiming the event of Force Majeure shall be excused from whatever performance is prevented thereby to the extent so affected and the other Party shall not be entitled to terminate this Sublease Agreement except as otherwise provided herein. The Party claiming the event of Force Majeure shall use commercially reasonable efforts to continue to perform its obligations hereunder.

11.3.2 No Party shall claim damages, penalties, interest or any other compensation from any other Party due to the occurrence of an event of Force Majeure.

11.3.3 The foregoing provisions of this Section 11 shall not, however, excuse or release the Party claiming Force Majeure from obligations due or performable, or compliance required, under this Sublease Agreement prior to the above mentioned failures or delays in performance due to the occurrence of Force Majeure or obligations not affected by the event of Force Majeure. Unless this Sublease Agreement shall have been terminated pursuant to Section 13, a Party excused from performance by the occurrence of Force Majeure shall continue its performance under this Sublease Agreement when the effects of the event of Force Majeure are removed.

SECTION 12
EVENTS OF DEFAULT; REMEDIES.

12.1 Default by NEO.

The occurrence of any of the following events shall be deemed a default by NEO (and, after lapse of any applicable grace period set forth below, a **"NEO Event of Default"**):

12.1.1 NEO fails to timely pay any installment of the GT Revenue Shortfall Fee, the Gateway Short-Term Idle Period Fee, or any other monetary sum due from NEO to Gateway hereunder, or any Rent due from NEO to the Authority hereunder, within five (5) Business Days after receipt of written notice of such failure;

12.1.2 NEO shall have become unable or admits in writing its inability to meet its financial obligations under this Agreement;

12.1.3 NEO files a petition for bankruptcy, insolvency, or voluntarily commences any proceeding or files any petition seeking liquidation, winding up, reorganization, moratorium, arrangement, composition or other similar relief under Applicable Law;

12.1.4 An involuntary proceeding is commenced or an involuntary petition is filed seeking an adjudication of NEO as bankrupt or insolvent, or seeking liquidation, winding up, reorganization, moratorium, arrangement, composition or other similar relief under Applicable Law in respect of NEO or any substantial part of its property;

12.1.5 NEO fails to perform any other covenant, condition, agreement or provision contained herein for thirty (30) days after written notice; or

12.1.6 Any representation or warranty of NEO contained in this Sublease Agreement or any other document delivered by NEO in connection with this Sublease Agreement proves to have been false, inaccurate or misleading in any material respect when made.

12.2 Remedies of Gateway upon NEO Event of Default.

Upon the occurrence and during the continuance of a NEO Event of Default other than payment of Rent to the Authority, Gateway may, by notice to NEO, declare NEO to be in Default and may do any or all of the following as Gateway, in its discretion, shall determine:

12.2.1 Gateway may give written notice to NEO requiring NEO to use its best efforts to remedy the NEO Event of Default within a period of time prescribed by Gateway, which shall not exceed five (5) Business Days in the case of NEO's failure to pay any monetary sum when due, and which shall not exceed three (3) months in all other cases, from the receipt of such notice and which shall take into account the nature of the NEO Event of Default;

12.2.2 If such NEO Event of Default is not remedied by the expiration of the specified period, or such shorter period as may be required in the event of emergency, or NEO fails to pursue reasonable steps to remedy such NEO Event of Default by the expiration of the specified period, Gateway shall have the right, but not the obligation, to cure such NEO Event of Default at any time thereafter, and NEO agrees to reimburse Gateway for any amount paid by Gateway to cure a NEO Event of Default. If NEO fails to reimburse Gateway within thirty (30) days of such payment, Gateway may deduct the amount paid from the next or future payments or credits to NEO hereunder;

12.2.3 To the extent that performance by NEO of the relevant obligation is reasonably practicable or legally available, Gateway may seek specific performance or other equitable remedies; and

12.2.4 Gateway may exercise any of its other rights and remedies provided for hereunder (including Section 13) or at law or equity.

12.3 Remedies of Authority Upon NEO Event of Default.

Upon the occurrence and during the continuance of a NEO Event of Default, involving any obligation of NEO to the Authority under this Sublease Agreement, including the nonpayment of Rent or Adjusted Rent to the Authority or failure to deliver or maintain the full amount of the Letter of Credit, the Authority may, by notice to NEO, declare NEO to be in default and may do any or all of the following as the Authority, in its discretion, shall determine:

12.3.1 In the event of nonpayment of Rent or Adjusted Rent to the Authority continuing beyond five (5) Business Days after receipt of written notice of such failure, the Authority may draw all applicable unpaid funds under the Letter of Credit described in Section 8.1 above;

12.3.2 The Authority may give written notice to NEO requiring NEO to use its best efforts to remedy the NEO Event of Default within a period of time prescribed by the Authority, which shall not exceed five (5) Business Days in the case of NEO's failure to pay any monetary sum when due;

12.3.3 To the extent that performance by NEO of the relevant obligation to the Authority is reasonably practicable or legally available, the Authority may seek specific performance or other equitable remedies; and

12.3.4 The Authority may exercise any of its other rights and remedies provided for hereunder (including Section 13) or at law or equity.

12.4 Gateway Event of Default.

The occurrence of any of the following events shall be deemed a default by Gateway (and, after the lapse of any applicable grace period set forth below, a **"Gateway Event of Default"**):

12.4.1 Gateway fails to operate and maintain the Port Facilities in accordance with the terms of the Concession Agreement and/or this Sublease Agreement for thirty (30) days after written notice;

12.4.2 Gateway fails to correct any Concessionaire Event of Default, as defined in Section 15.1 of the Concession Agreement, including the interruption of the utilities, services, or facilities within its control and used or consumed by NEO at the Site;

12.4.3 Gateway fails to pay any amount of money due to NEO within five (5) Business Days after receipt of written notice of such failure;

12.4.4 Gateway fails to perform any other covenant, condition, agreement or provision contained in the Concession Agreement and/or herein for thirty (30) days after written notice (or, with respect to the Concession Agreement such longer grace period as may be expressly set forth therein); and

12.4.5 Any representation or warranty of Gateway contained in this Sublease Agreement or any other document delivered by Gateway in connection with this Sublease Agreement proves to have been false, inaccurate or misleading in any material respect when made.

12.5 Remedies of NEO upon Gateway Event of Default.

Upon the occurrence and during the continuance of a Gateway Event of Default, NEO may, by notice to Gateway, declare Gateway to be in default and may do any or all of the following as NEO, in its discretion, shall determine:

12.5.1 NEO may require Gateway to use its best efforts to remedy the Gateway Event of Default within a period time which shall not exceed five (5) Business Days in the case of Gateway's failure to pay any monetary sum when due, and which shall not exceed three (3) months in all other cases and which shall take into account the nature of the breach (the **"Gateway Cure Period"**). If such Gateway Event of Default involves a failure to provide services required of Gateway under this Sublease Agreement or the Concession Agreement, NEO's remedies shall include the election to provide such services and charge Gateway the costs thereof.

12.5.2 If such Gateway Event of Default is not remedied by the expiration of the specified period, or such shorter period as may be required in the event of an emergency, or Gateway fails to pursue reasonable steps to remedy such Gateway Event of Default by the expiration of the specified period, NEO shall have the right, but not the obligation, to cure such Gateway Event of Default at any time thereafter, and Gateway agrees to reimburse NEO for any amount paid by NEO to cure a Gateway Event of Default. If Gateway fails to reimburse NEO within thirty (30) days of such payment, NEO may deduct the amount paid from the next or any future payments to Gateway hereunder.

12.5.3 To the extent that performance by Gateway of the relevant obligation is reasonably practicable or legally available, NEO may seek specific performance, injunction or other equitable remedies; and

12.5.4 NEO may exercise any of its other rights and remedies provided for hereunder (including Section 13) or at law or equity.

12.6 Limitation on Liability.

12.6.1 Notwithstanding any other provision of this Sublease Agreement, the Parties acknowledge that it is in their mutual interests to limit their liability to each other, and expressly bargain for and agree that neither Party shall be liable to the other Party under this Sublease Agreement for punitive, remote, indirect, special, consequential, expectation, ongoing, future or speculative damages, lost profits or any contingent liability (it being understood that such contingent liability, if it becomes actual, is subject to the exclusions under this Section 12.6).

12.6.2 In all cases, the liability of any Party for such Party's activities, obligations, liabilities, or debts with respect to this Sublease Agreement shall not be a liability of any officer, director, manager, member or equity owner of such Party.

12.6.3 In the event of any transfer or assignment by any Party of all or any portion of its rights and obligations hereunder, such transfer or assignment shall be effected pursuant to a written agreement whereby the transferee is responsible for all applicable obligations or liabilities under this Sublease Agreement arising from and after the date of assignment.

SECTION 13
TERMINATION

13.1 Termination.

This Sublease Agreement may be terminated as follows:

(a) NEO shall have the right, but not the obligation, to terminate if any Gateway Event of Default occurs and continues beyond the cure periods set forth in Sections 12.4 and 12.5 above. If NEO terminates under this subsection, NEO shall provide Gateway thirty (30) days' written notice.

(b) Gateway shall have the right, but not the obligation, to terminate if any NEO Event of Default occurs and continues beyond the cure periods set forth in Sections 12.1 and 12.2 above. If Gateway terminates under this subsection, Gateway shall provide NEO thirty (30) days' written notice.

(c) The Authority shall have the right, but not the obligation to terminate if any NEO Event of Default occurs and continues.

(d) Automatically, upon a termination of the Harbor Development Agreement by the Authority under Section 15.4 thereof as a result of a NEO Event of Default thereunder.

13.2 Effect of Termination.

On the early termination of this Sublease Agreement for whatever reason:

13.2.1 This Sublease Agreement (except for those provisions that by their terms survive the termination of this Sublease Agreement) shall cease to have effect, subject to all rights and obligations of the Parties existing prior to such termination;

13.2.2 NEO shall have no further Rent obligations beyond any prorated Rent necessary to fulfill its obligations hereunder for any occupancy of the Port Facilities from the later date of (i) notice of termination was given by either Party until such date as when the termination is deemed effective under Section 13.1or (ii) the date NEO surrenders possession of the Site and Port Facilities in the condition required hereunder;

13.2.3 NEO shall have no further monetary obligations to Gateway for fees beyond any prorated fees necessary to fulfill its obligations hereunder;

13.2.4 If either Party shall dispute such termination by the other Party, a final determination of the validity of any termination notice given under 13.1 shall be made in accordance with Section 17 herein; and

13.2.5 NEO shall surrender possession of the Site and Port Facilities in the condition required at the end of the Term, the Renewal Term or the Extended Renewal Term as applicable.

SECTION 14
INDEMNIFICATION

14.1 Indemnification by NEO.

NEO shall indemnify and hold harmless the Authority, Gateway and its Affiliates and the respective directors, officers, agents and employees of Gateway and its Affiliates (Gateway, the Authority and each such entity or person, being a "**NEO Indemnified Person**") from and against all third party personal injury or property losses, claims, damages judgments, assessments, costs and other liabilities (collectively, "**Expenses**"), whether or not in connection with pending or threatened litigation and whether or not any Indemnified Party is a party, to the proportionate extent arising out of or resulting from NEO's performance under this Sublease Agreement. The indemnity obligations of NEO set forth herein shall apply to any modification of this Sublease Agreement and shall remain in full force and effect regardless of any termination of, or the completion of services under or in connection with this Sublease Agreement.

14.2 Indemnification by Gateway.

Gateway shall indemnify and hold harmless the Authority, NEO and its Affiliates and the respective directors, officers, agents and employees of NEO and its Affiliates (NEO, the Authority and each such entity or person, being a **"Gateway Indemnified Person"**) from and against all Expenses, whether or not in connection with pending or threatened litigation and whether or not any Indemnified Party is a party, to the proportionate extent arising out of or resulting from

Gateways' performance under this Sublease Agreement. The indemnity obligations of Gateway set forth herein shall apply to any modification of this Sublease Agreement and shall remain in full force and effect regardless of any termination of, or the completion of services under or in connection with this Sublease Agreement.

14.3 Injured Employees.

The indemnification obligations under this Section 14 shall apply, without limitation, to all matters involving injured employees of NEO or Gateway, any supplier or Subcontractor of either, regardless of any provisions of the applicable workers' compensation laws, and in particular regardless of the exclusive remedy and/or employees' immunity provisions of those laws, all of which are hereby expressly waived.

14.4 Procedures.

14.4.1 If an Indemnified Party receives notice of any claim or the commencement of any suit, action, claim, proceeding or investigation brought by any Person other than an Indemnifying Party and with respect to which an Indemnifying Party is obligated to provide indemnification pursuant to this Sublease Agreement, the Indemnified Party shall, within ten (10) Business Days thereafter, give the Indemnifying Party written notice (an **"Indemnification Notice"**) thereof which sets forth in reasonable detail such information with respect to such suit, action, claim, proceeding or investigation as the Indemnified Party shall then have, but the failure to give an Indemnification Notice to the Indemnifying Party shall not relieve the Indemnifying Party of any liability that it may have to the Indemnified Party except to the extent that the Indemnifying Party shall have been materially prejudiced in its ability to defend the suit, action, claim, proceeding or investigation for which such indemnification is sought.

14.4.2 Upon receipt of an Indemnification Notice, the Indemnifying Party shall be entitled at its option and at its cost and expense to assume the defense of such suit, action, claim, proceeding or investigation with respect to which it is called upon to indemnify an Indemnified Party pursuant to this Section 14; provided, however, that the Indemnifying Party notifies the Indemnified Party of its intention to assume such defense within thirty (30) days after the Indemnified Party gives the Indemnifying Party the relevant Indemnification Notice. If the Indemnifying Party elects to assume the defense of such suit, action, claim, proceeding or investigation, as the case may be, the Indemnifying Party shall retain counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party shall have the right to employ its own counsel in any such suit, action, claim, proceeding or investigation, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party.

14.4.3 If the Indemnifying Party elects to assume the defense of any suit, action, claim, proceeding or investigation for which it is called upon to indemnify the Indemnified Party pursuant to this Section 14, the Indemnifying Party shall not settle or compromise such suit, action, claim, proceeding or investigation without the prior written consent of the Indemnified Party unless there is no finding or admission of any violation of law by the Indemnified Party, and the sole relief provided is monetary damages covered in full by the indemnity.

14.4.4 The Indemnifying Party agrees to keep the Indemnified Party reasonably informed of the events of any applicable suit, action, claim, proceeding or investigation. If requested by the Indemnifying Party, the Indemnified Party shall co-operate to the extent reasonably requested in the defense or prosecution of any suit, action, claim, proceeding or investigation for which such Indemnifying Party is called upon to indemnify the Indemnified Party pursuant to this Section 14.

14.4.5 The amount of any Loss indemnifiable pursuant to this Section 14 shall be reduced by (a) the value of any benefit (other than any insurance benefit or proceeds) realized, directly or indirectly, in any jurisdiction by the Indemnified Party as a result of such Loss; and (b) the amount of any insurance proceeds received by the Indemnified Party in respect of such Loss. If such proceeds are received by the Indemnified Party following an indemnifying payment in respect of the relevant Loss, the Indemnified Party shall pay to the Indemnifying Party an amount equal to the lesser of (i) the amount of such proceeds and (ii) the amount of the indemnifying payment made by the Indemnifying Party.

14.4.6 No amount shall be payable by any Indemnifying Party pursuant to this Section 14 in respect of consequential damages, including any loss of profit, revenue or opportunity or punitive damages; *provided, however*, that an Indemnifying Party may be liable under this Section 14 for all actual payments reasonably made by the other Party to third parties or reasonable out-of-pocket and documented costs or expenses actually suffered or incurred by such other Party in respect of third-party claims.

14.4.7 No Indemnified Party shall be entitled to be indemnified more than once under this Sublease Agreement for the same Loss.

SECTION 15
INSURANCE

15.1 Gateway Insurance Requirements.

15.1.1 Gateway shall obtain and maintain, or cause to be obtained and maintained, in full force and effect, the types and amounts of insurance set forth in **Schedule 2** at all times during the Term.

15.1.2 Gateway shall not act and shall prevent its Affiliates and Subcontractors from acting in any manner that would void any of the Insurances of Gateway or NEO.

15.1.3 On request of NEO, Gateway will provide certificates of insurance and additional insured endorsements for any insurance policy required under **Schedule 2**.

15.1.4 On request of NEO, Gateway shall provide copies of any insurance policies to NEO following a claim or notice of potential claim to which the policy may reasonably be believed to afford coverage to NEO as an additional insured.

15.1.5 Gateway shall provide at least thirty (30) days prior written notice to NEO and its designees of any cancellation.

15.2 NEO Insurance Requirements.

15.2.1 NEO shall obtain and maintain, or cause to be obtained and maintained, in full force and effect, the types and amounts of insurance set forth in **Schedule 3** at all times during the Term.

15.2.2 NEO shall not act and shall prevent its Affiliates and Subcontractors from acting in any manner that would void any of Gateway's Insurances.

15.2.3 On request of Gateway, NEO will provide certificates of insurance for any insurance policy required under Schedule 3.

15.2.4 On request of Gateway, NEO shall provide copies of any insurance policies to Gateway following a claim or notice of potential claim to which the policy may reasonably be believed to afford coverage to Gateway as an additional insured.

15.2.5 NEO shall provide at least thirty (30) days prior written notice to Gateway and its designees of any cancellation.

15.3 Waiver of Subrogation.

The Parties waive any right of action that they or their insurance carriers might have against each other (including their respective representatives) for any Loss to the extent that such Loss is covered by any property insurance policy or policies maintained, or required to be maintained pursuant to this Sublease Agreement, and to the extent that such proceeds (which proceeds are free and clear of any interest of third parties) are received by the Party claiming the Loss. If any of the Parties' applicable insurance policies do not allow the insured to waive the insurer's rights of subrogation prior to a Loss, the Party seeking to provide the waiver the waiver shall cause the applicable insurance policy to be endorsed with a waiver of subrogation that allows the waivers of subrogation required by this Section 15.

SECTION 16
ASSIGNMENTS

This Sublease Agreement shall be binding upon, and inure to the benefit of NEO, Gateway, the Authority and their permitted successors and assigns.

16.1 Assignment by NEO.

NEO may assign (a) this Sublease Agreement together with all its then surviving obligations under the Harbor Development Agreement, or (b) any of its assets, *provided that*:

(a) the assignee expressly assumes in writing all of the NEO obligations under this Sublease Agreement and other Project Documents that arise on or after the assignment date and provides no less than ninety (90) days prior written notice of such assignment and assumption to the Authority and Gateway; and

(b) the Authority and Gateway shall have each consented to such assignment (per **Annex A** paragraph (n).

Notwithstanding the foregoing, NEO shall have the right without the consent of (but with notice to) the Authority and Gateway to assign or transfer this Sublease Agreement and/or the rights and obligations thereunder, to an entity controlled by, under common control with, controlling, or affiliated with NEO. A transfer of or new issue of member interests within NEO shall not be considered an assignment.

16.2 Assignment by Gateway.

During the Term or Renewal Term, Gateway may assign the rights and obligations conferred under this Sublease Agreement to any Person, *provided that*:

(a) such assignment shall not modify NEO's rights under this Sublease Agreement;

(b) such assignment shall be to an experienced marine terminal operator having the ability to continue to operate the Port Facilities for the purposes contemplated by this Sublease Agreement; and

(c) NEO shall have consented to such assignment (per Annex A paragraph (n).

In the event Gateway assigns the rights and obligations hereunder, it shall provide NEO no less than ninety (90) days prior written notice.

16.3 Change of Concessionaire.

16.3.1 Without limiting Section 21, the termination of the Concession Agreement before the end of the Concession Period (as defined in the Concession Agreement) does not terminate the rights or obligations of NEO under this Sublease Agreement.

SECTION 17
RESOLUTION OF DISPUTES.

17.1 Scope.

Any dispute arising out of, relating to, or in connection with this Sublease Agreement, including any question as to whether such dispute is subject to arbitration, shall be resolved as set forth in this Section 17.

17.2 Informal Dispute Resolution Procedures.

The Parties shall attempt in good faith to resolve such dispute within fifteen (15) days following receipt by the other Party of notice of such dispute. If the Parties are unable to resolve the dispute within such fifteen-day period, and upon notice by either Party to the other, the dispute shall be referred to the Designated Senior Person of each Party. The Designated Senior Persons shall negotiate in good faith to resolve the dispute in the next following ten (10) day period,

conferring as often as they deem reasonably necessary. Statements made by representatives of the Parties during the dispute resolution procedures set forth in this Section 17.2 and documents specifically prepared for such dispute resolution procedures shall be considered part of settlement negotiations and shall not be admissible as evidence in any arbitration or other litigation proceeding between the Parties without the mutual consent of the Parties.

17.3 Arbitration.

If the procedures described in Section 17.2 do not result in resolution of the dispute within an aggregate thirty (30) day period (or as may be extended by mutual agreement following input from a Designated Senior Person from each Party) then

(a) The Party seeking resolution of a dispute shall give written notice to the other Party, setting forth the matters in dispute with particularity. If the Parties shall not have resolved such dispute within ten (10) days of written notice of the dispute, then either Party may submit the dispute for non-binding mediation in accordance with the Commercial Mediation Rules of the American Arbitration Association then in effect (the "Mediation"). Each Party shall have a senior management officer present during the Mediation. Any finding, award or testimony from such Mediation shall be inadmissible in any Court proceeding or action of the Parties pursuant to Section 17.4. If any dispute is not resolved by Mediation within ten (10) days of initiation of Mediation then

(b) the dispute shall be referred to non-binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then in effect (the "AAA Rules"). Any Party may initiate the arbitration, as provided in the AAA Rules. The place of arbitration shall be Hartford, Connecticut unless the Parties agree otherwise. The arbitral panel shall determine the rights and obligations of the Parties in accordance with the substantive laws of the State and without regard to conflicts of laws principles thereof. Except as agreed by the Parties, the arbitral panel shall have no power to alter or modify any terms or provisions of this Sublease, or to render any award that, by its terms or effects, would alter or modify any term or provision of this Sublease. The arbitral panel shall be composed of three arbitrators who have been licensed to practice law in the State for at least ten (10) years, one to be selected by Gateway, one to be selected by the NEO and with the third to be selected by the first two, unless the Authority is a party to the Arbitration in which case the third is to be selected by the Authority. Once the arbitral panel has been composed, the arbitrators shall act as neutrals and not as party arbitrators, and no Party shall engage in any ex parte communication with any member of the arbitral panel. Each Party shall bear its own attorney fees, expenses, and costs. The award may include interest. The award shall be in writing and state the reasons upon which it is based. The Federal Arbitration Act, 9 U.S.C. § 1 et seq., shall govern any arbitration conducted pursuant to this Section 17.3. Any finding, award or testimony from such arbitration shall be inadmissible in any court proceeding or action of the Parties pursuant to Section 17.4.

17.4 Submission to Jurisdiction and Jury Waiver.

EACH PARTY (A) SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING IN THE STATE OF CONNECTICUT IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SUBLEASE

AGREEMENT, (B) WAIVES ANY CLAIM OF INCONVENIENT FORUM OR OTHER CHALLENGE TO VENUE IN SUCH COURT IN ANY SUCH ACTION OR PROCEEDING, (C) AGREES NOT TO BRING ANY SUCH CLAIM OR CHALLENGE REGARDING THE WAIVERS OR OTHER PROVISIONS IN THIS SECTION 17.4, AND (D) AGREES TO WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SUBLEASE AGREEMENT, INCLUDING WIHTOUT LIMITATION ANY EVICTION OR FORCIBLE ENTRY OR DETAINER ACTION. EACH PARTY AGREES TO ACCEPT SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER INITIAL PLEADING MADE IN THE MANNER PROVIDED FOR THE GIVING OF NOTICES IN SECTION 20.1, PROVIDED THAT NOTHING IN THIS SECTION 17.4 SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVE SUCH SUMMONS, COMPLAINT OR OTHER INITIAL PLEADING IN ANY OTHER MANNER PERMITTED BY LAW. PROCESS IN ANY ACTION OR PROCEEDING REFERRED TO IN THE PRECEDING SENTENCE MAY BE SERVED ON ANY PARTY ANYWHERE IN THE WORLD.

17.5 Provisional Remedies.

No Party shall be precluded from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy to protect its rights that may be necessary and that is not otherwise available under this Sublease, including temporary and preliminary injunctive relief and restraining orders and the appointment of a receiver or receiver and manager in connection with the collection and retention of any income, costs or expenses provided for in this Sublease Agreement.

SECTION 18
GOVERNING LAW; SUBMISSION TO JURISDICTION

18.1 Governing Law.

The rights and obligations of the Parties under or pursuant to this Sublease Agreement shall be governed by and construed in accordance with the laws of the State, without giving effect to any provision that would result in the application of the laws of another jurisdiction. Without prejudice to the provisions of Section 17, each Party hereby irrevocably and unconditionally submits, for itself and its property, to the sole and exclusive jurisdiction of the state and federal courts within the State and any appellate court from any thereof, in any legal action, suit or proceeding arising out of or relating to this Sublease Agreement.

SECTION 19
MISCELLANEOUS

19.1 Confidentiality.

Each Party shall keep in confidence all drawings, records, data, books, reports, documents and information, whether technical, commercial or financial in nature, supplied to it by or on behalf of another Party relating to the Project that are designated as confidential by the applicable Party and shall not disclose the same in any manner other than for the purpose of raising financing for the Project (whether by way of debt or equity), for the purpose of performing its obligations or enforcing its rights hereunder, or as it may necessarily be required to disclose pursuant to

Applicable Laws or orders of appropriate Relevant Authorities. The provisions of this Section 19.1 shall, for the avoidance of doubt, supersede all confidentiality provisions contained in any prior agreement between the Parties.

19.2 Variations in Writing.

Any and all additions, amendments and variations to this Sublease Agreement shall be binding only if in writing and signed by Duly Authorized Signatories of each of the Parties.

19.3 Time and Indulgence.

19.3.1 No waiver by either Party of any Default by the other in the performance of any of the provisions of this Sublease Agreement: (a) shall operate or be construed as a waiver of any other or further Default whether of a like or different character; or (b) shall be effective unless in writing by a Party's Duly Authorized Signatory.

19.3.2 The failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Sublease Agreement or time or other indulgence granted by one Party to the other shall not thereby act as a waiver of such breach or acceptance of any variation.

19.3.3 Any time or other indulgence allowed by one Party to the other in which to perform its duties and obligations hereunder or to remedy any breach hereof shall not be, and shall not be construed as, a waiver by the Party giving such time or indulgence of any of its rights hereunder. Any such time or indulgence or waiver may be on and subject to such terms and conditions as the Party giving it may specify and shall be without prejudice to that Party's then accrued rights except to the extent expressly varied in such time, indulgence or waiver.

19.4 No Third Party Beneficiaries.

This Sublease Agreement is made exclusively for the benefit of NEO, Gateway and the Authority, respectively, and no third party shall have any rights hereunder or be deemed to be a beneficiary hereof, except as may be expressly provided herein..

19.5 Severability.

If any provision of this Sublease Agreement is or becomes wholly or partly invalid, illegal, or unenforceable: (a) the validity, legality and enforceability of the remaining provisions shall continue in force unaffected; and (b) the Parties shall meet as soon as possible and negotiate in good faith upon a replacement provision that is legally valid and that as nearly as possible achieves the objectives of this Sublease Agreement and produces an equivalent economic effect.

A replacement provision shall apply as of the date that the replaced provision has become invalid, illegal or unenforceable. If the Parties cannot reach agreement in good faith, any Party may invoke the dispute resolution procedure of Section 17 hereof.

19.6 No Sovereign Immunity.

To the extent applicable, the Authority waives sovereign immunity and consents to any claim, action, or arbitration brought or initiated by a Party to this Sublease Agreement to enforce any debt, liability, or obligation accruing to the Authority as a result of the obligations set forth herein.

19.7 No Personal Obligation.

No obligation, debt, or liability set forth in this Sublease Agreement is a personal obligation of any member, trustee, partner, director, officer, or shareholder of any Party, or any direct or indirect constituent entity of any Party or any Party's affiliates or agents. No Party shall seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Sublease Agreement or otherwise.

19.8 No Implied Surrender or Waiver.

The acceptance of Rent by the Authority or its Affiliate shall not be deemed to be a waiver (except as to any Default arising out of the failure to pay the Rent so accepted) of any breach by NEO of any covenant herein contained. No provisions of this Sublease Agreement shall be deemed to have been waived by Gateway or NEO unless such waiver is in writing and signed by the Party to be charged.

19.9 Survival.

The following sections shall survive the expiration or earlier termination of this Sublease Agreement:

Section 3.10	Removal by NEO
Section 12	Events of Default; Remedies
Section 13.2	Effect of Termination
Section 14	Indemnification
Section 17	Resolution of Disputes
Section 19.1	Confidentiality
Section 19.5	Severability
Section 19.6	No Sovereign Immunity
Section 19.7	No Personal Obligation
Section 19.8	No Implied Surrender or Waiver

SECTION 20
NOTICES

20.1 Address for Notices.

Any notice or communication to be given under or in connection with this Sublease Agreement shall be given in writing and shall either be delivered personally or sent by registered mail or internationally recognized overnight courier, or by email provided the applicable notice is

simultaneously circulated by a recognized overnight courier. The addresses for service of the Parties shall be those provided below, or such other address as any Party may notify in writing to the other Parties for this purpose.

To NEO:	c/o Orsted North America, Inc. 100 International Place 100 Oliver Street, Suite 2610 Boston, MA 02110 Attn: Charles R. Scott
with copies to:	Eversource Energy Service Company 56 Prospect Street Hartford, CT 06103 Attn: Wind Project Director
	Eversource Energy Service Company 800 Boylston Street, 17th Floor Boston, MA 02199 Attn: Deputy General Counsel
	Orsted A/S Kraftvaerksvej 53 DK-7000 Fredericia Denmark Attn: General Counsel Anders Zoega Hansen
	Orsted A/S Kraftvaerksvej 53 DK-7000 Fredericia Denmark Attn: Lead Legal Counsel Jeppe Skov Andersen
	Pierce Atwood, LLP 100 Summer Street Boston, MA 02110 Attn: Richard S. Novak, Esq.
to Gateway	Enstructure New Haven Holdings LLC 400 Waterfront Street New Haven, CT 06512
with copies to:	Enstructure LLC 16 Laurel Avenue, Suite 300

	Wellesley, MA 02481
	Phelps Dunbar, L.L.P. 365 Canal Street, Suite 2000 New Orleans, LA 70130-6534 Attn: James A. Stuckey, Esq.
To the Authority:	Connecticut Port Authority 455 Boston Post Road, Suite 204 Old Saybrook, CT 06475 Attn: Executive Director
with copies to:	Robinson & Cole LLP 280 Trumbull Street Hartford, CT 06103 Attn: Glenn A. Santoro, Esq.
	Director of Legal Affairs Office of the Secretary State of Connecticut Office of Policy and Management 450 Capitol Avenue Hartford, CT 06106-1379
	Legal Director Office of Legal Affairs, Policy & Procurement Department of Administrative Services 450 Columbus Boulevard, Suite 1307 Hartford, CT 06103

20.2 Deemed Service.

A notice shall be deemed to have been duly serviced as follows: (a) if personally delivered, at the time of receiving; (b) if sent by registered mail, on the third Business Day following the date of posting; and (c) if sent by internationally recognized overnight courier, upon receipt of confirmation of delivery, and (d) if sent by email upon proof of delivery (which may include the required evidence of the notice simultaneously being delivered by internationally recognized overnight courier.

In providing such service it shall be sufficient to prove that personal delivery was made or that the letter was properly addressed and dispatched.

20.3 Change of Address.

Either Party may change a nominated address to another address by prior notice to the other Party.

20.4 Counterparts; Facsimile Execution.

This Sublease Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Sublease Agreement shall be effective when it has been executed by each Party and delivered to all Parties. To evidence the fact that it has executed this Sublease Agreement, a Party may send a copy of its executed counterpart by electronic transmission. Such Party shall be deemed to have executed and delivered this Sublease Agreement on the date it sent such electronic transmission. In such event, such Party shall forthwith deliver an original counterpart of this Sublease Agreement executed by such Party.

SECTION 21
JOINDER BY AUTHORITY

21.1 Leasehold Rights.

21.1.1 For such period as the Sublease Agreement is continuing and in full force and effect and no Concessionaire Event of Default has occurred under the Concession Agreement and/or the Sublease Agreement, respectively, the Authority agrees to extend Gateway's rights in the Site to include a leasehold interest for the sole purpose of allowing Gateway to enter into this Sublease Agreement. The Authority and Gateway hereby acknowledge and agree that upon the expiration or earlier termination of the Sublease Agreement, Gateway's leasehold interest in the Site shall automatically be terminated without the need for further action or documentation by any party (but for the avoidance of doubt, Gateway's rights in the Site under the Concession Agreement are not terminated by any expiration or earlier termination of the Sublease). In addition, upon any termination of the Concession Agreement, Gateway's rights and interest in the Site shall automatically terminate without the need for further action or documentation by any party and Gateway shall immediately quit and peacefully surrender the Site and Port Facilities to the Authority under the terms set forth in Sections 15.6 and 15.7 of the Concession Agreement. In the event Gateway's rights or interest in the Project terminate and Gateway fails to immediately quit and surrender the Site and Port Facilities as required hereunder, the Authority shall have all rights and remedies under the Concession Agreement and the Sublease Agreement, at law or in equity; provided that NEO's rights shall continue as set forth in Sections 21.1.6, 21.2 and 21.3 below. Notwithstanding the foregoing, upon any such termination of Gateway's rights or interest, the rights of Gateway shall revert to those set forth in the Concession Agreement.

21.1.2 By virtue of all powers delegated to the Authority, including without limitation the deed dated _____ from [CT DoD] recorded _____ the Authority hereby confirms its authority to provide the lease and sublease expressly provided in this Article 21 above and the Authority hereby joins in this Sublease Agreement and expressly confirms, that the Authority hereby leases to Gateway, for the purposes of the Authority effectuating this Sublease Agreement and the Authority being bound by the sublease by Gateway to NEO hereunder, of the Site (and all easements, entitlements and appurtenant rights appurtenant rights related thereto).

21.1.3 In the event of any final termination of NEO's sublease rights under this Sublease (and which rights are not then replaced by a New Sublease under Section 21.3), then all leasehold rights of Gateway granted under this Section 21.1 shall be null and void ab initio, and

the respective rights of the Authority and Gateway shall revert to those set forth in the Concession Agreement, and without limiting the foregoing all respective rights of Gateway and the Authority with respect to possession and surrender of the Site shall be set forth in the Concession Agreement.

21.1.4 By virtue of all powers delegated to Gateway under Section 21.1.1 and the Concession Agreement, Gateway hereby subleases the Site (and all easements, entitlements and appurtenant rights related thereto) to NEO on the term and conditions set forth herein.

21.1.5 NEO hereby acknowledges and agrees that the foregoing grant of subleasehold rights shall in all events be subject to the terms and conditions of the Concession Agreement, as modified by Section 10 above, whether NEO possesses under this Sublease or under a New Sublease under Section 21.3. Except as expressly provided in this Sublease Agreement, the Sublease Agreement shall in all respects be subject to, and subordinate to, the Concession Agreement and to all of the terms and conditions thereof.

21.1.6 The Authority hereby consents to Gateway and NEO entering into this Sublease Agreement. Gateway and NEO shall not, without the Authority's prior written consent in each instance: (i) permit any assignment, subletting, licensing or otherwise encumbering the Site except as otherwise expressly set forth herein, or (ii) modify or amend the Sublease Agreement in any manner altering the Rent, Term or other aspect material to the Authority without the prior written consent of the Authority, but, in every such case, NEO and Gateway shall promptly provide the Authority with notice of such modification and amendment and provide the Authority with a copy thereof. Notwithstanding anything to the contrary contained herein, the Sublease Agreement shall, in no event, be construed to permit any greater use of the Site than is provided for in the Concession Agreement and the HDA. NEO shall not act in any way which causes Gateway to default under the Concession Agreement, the HDA or this Sublease Agreement. Nothing contained herein shall constitute the Authority's consent to any alteration to the Site or Port Facilities, and all alterations must comply with the applicable provisions of the Concession Agreement and/or HDA.

21.2 Recognition and Non-Disturbance Agreement of NEO.

So long as no NEO Event of Default has continued beyond any applicable cure period, NEO's possession of the Port Facilities, the Site and the Project and NEO's rights and privileges under this Sublease, including any extensions or renewals, shall not be diminished or interfered with by the Authority during the term of this Sublease or any extensions or renewals, by reason of any termination of the Concession Agreement or otherwise, and the Authority will not join NEO as a party for the purpose of terminating or otherwise affecting NEO's interest under this Sublease, in any action of termination or other proceeding brought by the Authority to enforce any rights arising because of any default under the Concession Agreement. The Authority may, however, join NEO as a party if joinder is necessary under any statute or law to secure the remedies available to the Authority under the Concession Agreement, but joinder shall be for that purpose only and not for the purpose of terminating this Sublease or affecting NEO's right to possession of the Port Facilities, the Site and the Project.

If Gateway's interest in the Port Facilities, the Site and the Project or in this Sublease is transferred to and owned by the Authority or transferred to a new operator of the Site and Port

Facilities (replacing Gateway) (either such party, a "Gateway Successor") because of termination or other proceedings brought by the Authority, or by any other manner, and the Gateway Successor succeeds to Gateway's interest under this Sublease, then NEO shall be bound to the Gateway Successor, and the Gateway Successor shall be bound to NEO under all of the terms, covenants and conditions of this Sublease for the balance of the remaining Term, the Renewal Term or the Extended Renewal Term, as applicable, including any extensions or renewals, with the same effect as if the Gateway Successor were initially party to all of Gateway's rights and obligations hereunder. NEO agrees to attorn to the Gateway Successor, with the attornment being effective and self-operable immediately upon the Gateway Successor succeeding to the interest of Gateway under this Sublease, all without the execution by the Parties of any further instruments. The respective rights and obligations of NEO and the Gateway Successor upon attornment, to the extent of the then-remaining balance of the Term of this Sublease, shall be the same as in this Sublease. If the Gateway Successor succeeds to Gateway's interest in this Sublease, then the Gateway Successor shall be bound to NEO under all the terms, covenants and conditions of this Sublease, and NEO shall, after the Gateway Successor's succession to Gateway's interest, have the same remedies against the Gateway Successor for the breach of any agreement in this Sublease that NEO might have had against Gateway.

21.3 Grant of New Sublease to NEO.

The Authority covenants and agrees with NEO that upon any deemed termination of this Sublease for any reason other than a NEO Event of Default remaining uncured beyond all applicable grace periods, then, at the request of NEO delivered in writing to the Authority within fifteen (15) days after receipt of notice of such termination, the Authority will, upon compliance with the requirements of this Section 21.3, with reasonable promptness, enter into a new sublease with NEO upon the same terms and conditions contained in this Sublease, with appropriate revisions to reflect the rights of NEO, for the remainder of the Term of this Sublease subsequent to the date of the termination of this Sublease (the "New Sublease"); said New Sublease shall have the same priority as this Sublease with respect to the Port Facilities, the Site and the Project, and that the Authority shall assign to all insurance and condemnation proceeds which would have been the property of NEO under this Sublease absent termination, if any. The Authority shall not be required to enter into such a New Sublease unless, prior to the execution and delivery of such New Sublease, NEO (A) shall have paid, or caused to be paid, all Rent, and other sums due and payable by NEO to the date of commencement of the New Sublease, together with the Authority's reasonable expenses including (i) all reasonable costs incurred by the Authority in curing any defaults or managing the Port Facilities, the Site and the Project, and (ii) any reasonable attorneys' fees in terminating the Sublease and preparing and delivering the New Sublease, less a credit for the net proceeds of all rents collected by the Authority during the interval between termination of this Sublease and entry into the New Sublease, and (B) shall have cured all existing defaults under this Sublease Agreement, including, any monetary defaults and paid any delinquent premiums for insurance required under the Sublease. Upon becoming the tenant under such New Sublease, NEO shall perform all the covenants and obligations of the Tenant which are reasonably within the power of NEO to perform. Notwithstanding anything to the contrary contained herein, if there is a Gateway Successor that is not the Authority, then the Authority's obligation under this Section 21.3 shall be limited to ensuring that the New Sublease is executed and delivered by the Gateway Successor, as sublandlord under the New Sublease.

21.4 Representations and Warranties of the Authority.

The Authority hereby represents and warrants, as of the Effective Date, that:

21.4.1 The Authority has the power and authority to enter into this Sublease Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by the Authority in accordance with the terms hereof;

21.4.2 This Sublease Agreement and the other Project Agreements to which it is a Party have been duly executed by the Authority and are legally valid and binding upon the Authority,

21.4.3 No consent is required to be obtained by the Authority from, and no notice or filing is required to be given by the Authority to or made by the Authority with, any Person (including any Relevant Authority) in connection with the execution and delivery by the Authority of this Sublease Agreement or the consummation of the transactions contemplated hereby, except for such consents that have been obtained and notices of filings that have been given as of the Effective Date or such other consents that are not required to be obtained as at the Effective Date and are expected to be obtainable following the Effective Date,

21.4.4 The Authority or its designees are or will be the holder of all governmental consents, Permits and other authorizations required to fulfill its obligations , if any, expressly provided under this Sublease Agreement,

21.4.5 The Authority has, and shall retain, good and valid title to the Port Facilities and the Site, and the Authority has all necessary rights in respect of the Site in order to lease the same to Gateway under the Concession Agreement, as modified by the terms of Exhibit A attached hereto.

21.4.6 The execution and delivery of this Sublease Agreement by the Authority, the consummation of the transactions contemplated hereby and the performance by the Authority of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Authority under (a) any Applicable Law, (b) any material agreement, instrument or document to which the Authority is a party or by which it is bound or (c) the enabling legislation, articles, bylaws or governing documents of the Authority; and

21.4.7 After making due inquiries, the Authority has no actual knowledge of any proceedings, actions or claims, pending or threatened, against or otherwise involving the Authority that would have a Material Adverse Effect on the Authority's ability to fulfill its respective obligations under this Sublease Agreement or the other Project Agreements to which it is a party.

21.5 Contracting Requirements.

In accordance with the Operating Procedures of the Authority, NEO and Gateway shall comply with the applicable procurement and contracting requirements as set forth on **Schedule 4** attached hereto.

SECTION 22
JOINT PREPARATION.

All Parties have participated equally and freely in negotiating and drafting this Sublease Agreement, with the advice of legal counsel selected by it. The Parties acknowledge and agree that any rule of construction that a document is to be construed against the drafting Party shall not be applicable to this Sublease Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Sublease Agreement has been executed by duly authorized representatives of the Parties hereto as of the day, month and year first above written.

GATEWAY:
Gateway New London LLC

By: _____
Name:
Title:

NEO:
NORTH EAST OFFSHORE, LLC

By: _____
Authorized Person

By: _____
Authorized Person

For the limited purposes of joining this Sublease Agreement as expressly provided in this Sublease Agreement:

Connecticut Port Authority

By: _____
Name:
Title:

Annexes to Sublease

a. Definitions
b. Gateway Scope of Services and Fees to OEMs
c. Form of Gateway Quarterly Report

Schedules to Sublease

1. The Site
2. Gateway Insurance
3. NEO Insurance
4. CPA Procurement and Contracting Requirements
   Schedule 4 Exhibits
   B- [omitted]
   C- SEEC Form 10
   D – Contractor Gift Certification
   E – Acting Chair Certification re: Gifts
   F- Iran Certification

Exhibits to Sublease

Exhibit A – Concession Agreement Provisions

Schedule 1

The "Site" shall mean the site shown on Schedule 1 of the HDA. For clarity the "Site" means such site as it may be altered by this Project and/or adjusted pursuant to the provisions of Section 2.4 of the HDA as to the Rescoped Project and the Minimal Scope, as applicable.

Annex A

Part I

Definitions.

"AAA"	has the meaning given to that term in Section 17.3;
"AAA Rules"	has the meaning given to that term in Section 17.3;
"Active Period"	has the meaning given to that term in Section 5;
"Active Period Advance Notice"	has the meaning given to that term in Section 5.1.2;
"Affiliate"	means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person; and provided, further, that an Affiliate of any Person shall also include (a) any Person that directly or indirectly owns more than fifty percent (50%) of any class of capital stock or other equity interest of such Person, (b) any officer, director, trustee or beneficiary of such Person, (c) any spouse, parent, sibling or descendant of any natural Person described in paragraphs (a) or (b) above, and (d) any trust for the benefit of any Person described in paragraphs (a) through (c) above or for the benefit of any spouse, issue or lineal descendant of any Person described in paragraphs (a) through (c) above;
"Applicable Law"	means any international, national, United States, State, municipal or other local statute, treaty, regulation, resolution, rule, ordinance, opinion, enactment, judgment, decision, award, order, Code, decree, directive, requirement, any common or customary law, constitutional law or other governmental restriction (including any Regulatory Approval) applicable to the Parties, the Project, the Port Facilities, the Port Services, the Site or any of the transactions contemplated hereby, and any form or decision of or determination by or interpretation of any of the foregoing by any Relevant Authority, now or hereafter in effect, in each case as amended, re-enacted or replaced;
"Authority"	means the Connecticut Port Authority and its successors and permitted assigns;
"Authority/NEO Capital Cost Ratio"	Means the ratio, totaling 100% and expressed as "__%/__%", of the Authority Project Capital Cost and the NEO Project Capital Cost, as a percentage of the sum of both. For example if the Authority Project Capital Cost is $35.5 million, the NEO Project Capital Cost is $35 million and the total is $70.5 Million, the Authority/NEO Capital Cost Ratio would be 50.35%/49.65% (i.e. 50.35% for the Authority and 49.65% for NEO).
"Authority Project Capital Cost"	means the actual monies paid by the Authority to fulfill its Budgeted Costs funding obligation for the Project pursuant to Section 8 of the Harbor Development Agreement;

"Budgeted Costs"	means all reasonable costs associated with Project permitting, engineering and design, construction and other costs directly related to the Work as outlined in Schedule 4 of the Harbor Development Agreement;
"Business Day"	means a day (other than a Saturday or Sunday) on which the offices of the government of the State are open for business;
"Code"	means Internal Revenue Code;
"Concession Agreement"	means the agreement entered into on January 7, 2019, as may be amended from time to time, by and between the Authority and Gateway, conferring certain rights and obligations upon Gateway, as Gateway, for the administration of the Port Facilities and to provide Port Services;
"Concessionaire"	means Gateway or any other Person with rights to the Site and the right and obligation to operate, maintain, or improve the Port Facilities pursuant to an executed concession agreement;
"Default"	means any event, circumstance or condition that constitutes an Event of Default or which, upon notice, lapse of time or any combination thereof, would become an Event of Default;
"Designated Senior Person"	means an individual, as designated from time to time by each Party, with the appropriate level of oversight and authority for the purposes of Section 17;
"Discriminatory Change in Law"	means any change in Applicable Law enacted (or which comes into force) after the Effective Date by the State or the Authority or their agencies or instrumentalities, the terms of which have a Material Adverse Effect on the Project;
"United States Dollars", "Dollars", "USD" or "$"	means the lawful currency from time to time of the United States of America;
"Duly Authorized Signatory"	means an individual, as designated from time to time by each Party, with the requisite authority to bind the Party to certain actions and obligations as set forth in this Harbor Development Agreement;
"Effective Date"	means the date set forth on the title page of this Sublease Agreement;
"Employee"	means a person employed by a Party to this Harbor Development Agreement or assignee thereof in connection with the Project;

"Environmental Laws"	means all federal, state and local laws, statutes, ordinances, regulations, orders, criteria and guidelines issued by governmental authorities having jurisdiction, including any judicial or administrative interpretations thereof, in each case as amended, relating to the regulation and protection of human health, safety, the environment and natural resources, including, without limitation, the Comprehensive, Environmental Response, Compensation and Liability Act of 1980 (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Oil Pollution Act of 1990, the Toxic Substances Control Act, the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, each as amended;
"Event of Default"	means a breach of this Agreement caused by or resulting from the actions or inactions of a Party to this Agreement beyond any applicable notice and cure period;
"Expected Use Report"	has the meaning given to that term in Section 4.2.1;
"Expenses"	has the meaning given to that term in Section 14.1;
"Extended Term"	has the meaning given to that term in Section 8.1.2;
"Final Acceptance"	shall have the meaning given to that term in Section 5.4 of the Harbor Development Agreement;
"Force Majeure"	has the meaning given to that term in [Section 11.1];
"Gateway" or "GT"	means Gateway New London, LLC, its successors or assigns;
"Gateway Event of Default"	has the meaning given to that term in [Section 12.4];
"Gateway Gross Revenues"	has the meaning given to that term in Annex A of the Concession Agreement;
"Gateway Idle Period Direct Costs"	means, for any Idle Period, all actual, direct costs prudently incurred by Gateway;
"Gateway Idle Period Gross Revenues"	means all Gateway Gross Revenues actually received by Gateway during any Idle Period;
"Gateway Quality Report"	has the meaning given to that term in Section 5.4.1;
"Gateway Short-Term Idle Period Fees"	has the meaning given to that term in Section 6.3.2;
"Good Industry Practice"	means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator adhering to internationally recognized good practices prevailing at the relevant time and seeking in good faith to comply with its contractual obligations, the Port Standards and all other Applicable Laws;
"GT Revenue Shortfall Fee"	has the meaning given to that term in Section 5.4.2.2;

"Harbor Development Agreement"	means the agreement entered into on [ ], 2020, as may be amended from time to time, by and between the Authority, Gateway, and NEO conferring certain rights and obligations upon each for the redevelopment and operation of the Port Facilities to provide Port Services;
"Hazardous Substance"	means (a) any radioactive materials, asbestos-containing materials, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum byproducts and derivatives and radon gas, or (b) any other chemical, material, substance, waste, pollutant or contaminant that is capable of causing damage, harm or disruption to the Environment or is prohibited, limited or regulated by or pursuant to any Environmental Law;
"Idle Period"	has the meaning given to that term in Section 6.1.1;
"Idle Period Advance Notice"	has the meaning given to that term in Section 6.1.1;
"Idle Period Start Date"	means the first [Business] Day following the end of an Active Period, determined in accordance with Section 6.1.4;
"Indemnification Notice"	means a notice referred to in [Section 14.4.1];
"Indemnified Party"	means the Party to be indemnified pursuant to [Sections 14.1 to 14.3], as applicable;
"Indemnifying Party"	means the Party providing indemnification pursuant to [Sections 14.1 to 14.3], as applicable;
"Insurance Requirements"	means the obligations set forth in [Section 17] with respect to the Site, the Work, the Port Facilities and the Port Services, including required insurance, obligations with respect to the payment of premiums and rights and obligations with respect to the payment of losses under insurance policies;
"Long-Term Idle Period"	Means any duration of time greater than 24 months designated by NEO under Section 6.2.1, during which NEO does not perform any Permitted Uses at the Site, except that nonperformance for reason of Force Majeure shall be excluded;
"Long-Term Idle Period Advance Notice"	has the meaning given to that term in Section 6.2.1;
"Long-Term Idle Period Start Date"	has the meaning given to that term in Section 6.2.3;

"Loss"	means any loss, liability, damage, fine, penalty, reasonable attorney's or consultant's fee, expense or cost (including current or future unpaid Concession Fees and including any cost of limiting, mitigating, remediating, preventing, removing, addressing, investigating, monitoring, containing, evaluating, abating or cleaning up, or of reporting to and dealing with any Relevant Authority or third party in respect of the Release or threatened Release of any Hazardous Substances or any Environmental Matter), but excluding any punitive, remote, or speculative damages, and further excluding any contingent liability until such contingent liability becomes actual, and "Losses" means any one or more Loss;
"Material Adverse Effect"	means a material adverse effect on the business, financial condition or the rights of any Party under this Harbor Development Agreement; provided, however, that no effect arising out of or in connection with or resulting from any of the following shall be deemed, either alone or in combination, to constitute or contribute to a Material Adverse Effect: (a) general economic conditions or changes therein; (b) financial, banking, currency or capital markets fluctuations or conditions (whether in the United States, any of its territories or any international market and including changes in interest rates); (c) conditions affecting all of the real estate, financial services, construction or marine port industries; (d) any existing event, occurrence or circumstance of which all Parties have knowledge as of the Effective Date; (e) any action, omission, change, effect, circumstance or condition contemplated by this Harbor Development Agreement or attributable to the execution, performance or announcement of this Harbor Development Agreement or the transactions contemplated hereby, with the exception of litigation related to the execution or delivery of this Harbor Development Agreement; (f) any negligence, intentional misconduct or bad faith of a Party or its representatives; (g) any changes in industry standards, technology, available materials or resources; or (h) the adoption of any Applicable Law by any Relevant Authority after the Effective Date, or any change in any Applicable Law or in the interpretation or application thereof by any Relevant Authority after the Effective Date;
"NEO"	means Bay State Wind or its Affiliate and any successors and permitted assigns;
"NEO Event of Default"	has the meaning given to that term in Section 12.1;
"NEO Indemnified Person"	has the meaning given to that term in Section 14.2;
"NEO Local Representative"	shall have the meaning given to that term in Section 3.2.1;

"NEO Project Capital Cost"	means the actual monies, excluding the DWW Funding Commitment, paid by NEO to fulfill its Budgeted Costs funding obligation for the Project pursuant to Section 8 of the Harbor Development Agreement;
"NEO Services"	has the meaning given to that term in Section 7.2.3;
"NEO sub-Lease Fees"	has the meaning given to that term in Section 6.4.2;
"New Haven Facility"	means Gateway pier operations located at 400 Waterfront St, New Haven, CT 06512;
"Occupancy Date"	has the meaning given to that term in 2.2;
"OEM" or "OEMs"	means the several WTG Original Equipment Manufacturers designated from time to time by NEO as users of the Project;
"Party" or "Parties"	means NEO, Gateway, or the Authority as individually or collectively referenced;
"Permit"	means all permits, approvals, licenses, authorizations, certifications, filings, recordings or other approval, including without limitation zoning, land use, building, environmental, construction and operating permits that are required to be obtained or maintained or otherwise necessary in any activity related to the Port Facilities and performance of the Work;
"Permitted Uses"	has the meaning given to the term in Section 3;
"Person"	means any individual, partnership, corporation, company, business organization, trust, governmental agency or other entity;
"Port Facilities" or "Port Facility"	means the reclamation, piers, docks, wharves, terminals, buildings, structures, storage areas, roads, railways, machinery, apparatus and like facilities intended to form or forming part of the works designed, built, constructed, located, maintained, operated and/or improved at the Site, including all supporting infrastructure, Cranes, Fixtures and Fittings and Movable Property incidental thereto or necessary or useful for the provision of the Port Services at the Site, as the same may be altered or added to from time to time in accordance with the Harbor Development Agreement and the Concession Agreement;
"Port Services"	means: (a) the services, responsibilities and other obligations of Gateway specified in Annex B (Port Services) of the Concession Agreement, (b) all other services, responsibilities and other obligations of Gateway as is provided elsewhere in the Concession Agreement, (c) such other business, activities, facilities and services as may be necessary or incidental to the provision of the foregoing or otherwise ordinarily provided from time to time at marine terminal facilities and (d) such other business, activities, facilities and services as Gateway may be permitted or required to provide from time to time in accordance with Section 8.3, Section 8.5 or any other provision of the Concession Agreement, or pursuant to the Port Standards, Applicable Laws or Good Industry Practice;

"Prime Rate"	means the interest rate announced from time to time by Bank of America, N.A. or any successor thereto as its "prime rate";
"Project"	has the meaning given to that term in the Recitals;
"Project Agreements"	means this Sublease Agreement; the Harbor Development Agreement, including each Subcontract thereunder; the Concession Agreement and each other agreement or instrument initialed or otherwise designated in writing as a "Project Agreement" to which either the Authority, NEO, or Gateway is a party and which further effectuates the bargained-for value of this Sublease Agreement;
"Redevelopment"	shall have the meaning given to the term [in the Harbor Development Agreement];
"Regulatory Approval"	means, collectively, all licenses, permits, approvals, orders, authorizations, registrations, filings or consents required by Relevant Authorities, the Authority, Applicable Laws, the Port Standards, Good Industry Practice or generally accepted practices with respect to the administration, management, operation, improvement and maintenance of, and the provision of Port Services at the Site and the Port Facilities;
"Release"	means any spilling, leaking, pumping, pouring, emitting, discharging, escaping, leaching, dumping, disposing, dispersing, injecting, depositing, emanating or migrating of any Hazardous Substance in, into, onto, or through the Environment or within any building, structure, facility or fixture;
"Relevant Authority"	means any United States Federal, State, local, municipal or other public authority, body, agency, ministry, department, commission, instrumentality, court, tribunal, judicial or arbitral body or other Person having jurisdiction over or with respect to any Party, the Port Facilities, the Port Services, the Site or the Project, including without limitation the U.S. Coast Guard and any other branch of the military services of the State or the United States;
"Renewal Term"	has the meaning given to that term in Section 2.3;
"Rent"	Has the meaning given to that term in Section 8;
"Repair Deadline"	has the meaning given to that term in Section 3.6;
"Short-Term Idle Period"	has the meaning given to that term in Section 6.3.1;
"Site"	has the meaning given to that term described in Schedule 1. The site includes use of all Port Facilities associated therewith, as the same shall have been modified pursuant to the Project
"State"	means the State of Connecticut;
"Subcontract"	means any other subcontract, purchase order or similar agreement with any Subcontractor;

"Subcontractor"	means any Person with whom NEO, the Authority or Gateway has entered into a contract or subcontract to perform services or to provide any materials, equipment, supplies or other goods to or on behalf of the itself in connection with the Project (and any other Person with whom any Subcontractor has further entered into such a contract or subcontract);
"Sublease Agreement"	has the meaning set forth in Section 1.4;
"Term"	has the meaning given to that term in Section 2.1;
"Work"	means the Work described in Annex B to the HDA;
"WTG"	has the meaning given to that term in the Recitals;

ANNEX A- CONTINUED

Part II

RULES OF INTERPRETATION.

(a) An "amendment" includes any modification, supplement, novation or re-enactment (and "amended" is to be construed accordingly);

"assets" includes present and future properties, revenues and rights of every description whether real, personal or mixed, and whether tangible or intangible;

an "authorization" includes an authorization, consent, approval, order, resolution, permit, notice, license, exemption, filing, registration and notarization;

"control" means, with respect to a Person, the possession, directly or indirectly, to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise (and the terms "controlled by" and "under common control with" shall have correlative meanings); and

an "instrument" includes any written document.

(b) A Section, Clause, Recital, Schedule, Exhibit, Part or paragraph is, subject to any contrary indication, a reference to a section, clause, recital, schedule, exhibit, part or paragraph of the agreement or document in which such reference appears.

(c) A reference to any Party or Person includes its successors and its permitted transferees and assigns.

(d) Unless otherwise specified, a time of day is a reference to New London, Connecticut time.

(e) Unless defined otherwise herein, a term defined or construed in any communication or document made or delivered under or in connection with this Sublease Agreement has the same meaning when used in any other such communication or document and vice versa.

(f) Unless the context otherwise requires, reference to the singular includes a reference to the plural and vice versa and reference to the masculine includes a reference to the feminine and neuter.

(g) Unless the context otherwise requires, any reference to an agreement, document or other instrument shall be a reference to the same including all schedules, exhibits, annexes and other attachments thereto, and in each case as amended, novated, supplemented and in effect from time to time, and any reference to any Regulatory Approval or other Applicable Law includes references to the same as amended, novated, supplemented, re-enacted or applied (before or after the signature of the agreement, document or instrument in which such reference is made).

(h) Unless the contrary intention appears, the term **"including"**, **"include"** or **"includes"** shall be deemed to be followed by the phrase "but not limited to", and the term "material" and

"materially" shall be deemed to be followed by the phrase "in the reasonable opinion of the relevant Party".

(i) A document is in "agreed form" if it is in the form initialed for the purposes of identification as such by the Parties.

(j) The index to and the headings in any agreement or document are for convenience only and are to be ignored in construing such agreement or document.

(k) The annexes, schedules, appendices or exhibits attached to an agreement are an integral part of that agreement.

(l) Except as otherwise expressly provided, where the day on or by which a payment is due to be made is not a Business Day, that payment shall be made on or by the next succeeding Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not one). If the due date of such payment is extended, interest, fees and charges (if any) thereon shall continue to accrue for the period from the due date that is not a Business Day to that next succeeding Business Day.

(m) An approval by the Authority is not "unreasonably withheld or delayed" if such approval requires action by another Relevant Authority whose processes or procedures delay approval by the Authority.

(n) Unless specified otherwise, any approval that is required or permitted under this Sublease Agreement must be in writing (unless waived in writing by the other Party), and unless otherwise provided in this Sublease Agreement, such an approval shall not be unreasonably or arbitrarily withheld, conditioned or delayed.

(o) The word **"discretion"** with respect to any Person means the sole and absolute discretion of such Person.

New London State Harbor

Gateway services

GT Baseline- core harbor services that GT will perform as standard scope without special request

Direct OEM request- additional services that the OEM and its contractors may request directly from GT. This scope may belong in a side agreement between GT and OEM where rates should be agreed

Type	Service	Scope of Service	Rate All provided rates are subject to reasonable adjustments at the time the commerical services are provided to incorporate labor market pricing, to be agreed by both parties
GT Baseline	Site security	Full site secuirty including fencing, gate with 24/7 security guard responsible for guest managment, CCTV TBD, mobile fencing as needed.	Costs are paid by OEM unless otherwise agreed. Indicative cost is $[redacted]/ hr.
GT Baseline	Electricity & water consumption	Electricity and water provided to site and vessels tracked by specific consumption.	- Calculated on actual consumption covering inbound cargo vessels and payable by OEM unless otherwise agreed. - Calculated on actual consumption covering outbound installation vessels and payable by Developer unless otherwise agreed. - Calculated on actual consumption covering site operations and equipment and payable by OEM unless otherwise agreed.
GT Baseline	General site maintenance	Typical required upkeep on site to keep conditions at a good working level such as lighting, landscaping, and general facility upkeep.	GT responsible at no cost to NEO or OEM.
GT Baseline	Additional site maintenance	Additional maitenance requirements outside of general site maitenance that are required due to damage caused by the NEO or OEM. GT may perform or subcontract work.	At additional cost to NEO or OEM. Cost TBD based on work being performed; indicative rate of $[redacted]/ man hr. If works are subcontracted, NEO or OEM to be involved in selection process.
GT Baseline	Wharfage	Refers to a charge assessed against the vessel on all cargo, passengers and containers, loaded or empty, passing or conveyed over, onto or between vessels (to or from barge, lighter or water) when berthed at a wharf. Wharfage is solely the charge for use of the wharf and does not include charges for any other service.	- Calculated on inbound cargo as per published port tariff at $1.45 per manifested MT and payable by cargo owner unless otherwise agreed. - Commencing with second year of Pier operations, this rate is subject for annual CPI
GT Baseline	Dockage	Refers to the charge assessed against a vessel for berthing at the facility or for mooring to a vessel so berthed. The period of time for which Dockage shall be assessed against the vessel shall commence when such vessel is made fast to the wharf, bulkhead, or to another vessel so berthed, and shall continue until such vessel has completely vacated such berth.	- Calculated on inbound cargo vessels as per published port tariff at $0.39 per net registered ton (NRT) and payable by OEM unless otherwise agreed. - Calculated on outbound installation vessels as per net registered ton (NRT) and payable by Developer unless otherwise agreed. - Commencing with second year of Pier operations, this rate is subject for annual CPI

GT Baseline	Stevedoring	General labor to handle cargo from in and outbound transports. Training guidelines and instructions to be provided by customer. If additional training is required, then should be implemented in collaboration with customer. 6-8 men teams (tbd) for inbound and outbound vessels, repetitive work working in two shifts (12 hr shifts), full-timers to be provided during long project periods.	- $[redacted] Standard Gang labor rate escalated [redacted]% annually - $[redacted] Lashing Gang labor rate escalated [redacted]% annually - Fees shall be payable by OEM unless otherwise agreed
GT Baseline	Warehouse Management	storeman support to manage all components in warehouse. sort, unpack and administor all moving components, logistics (forklift operator), inventory management,	- Fees (TBD) shall be payable by OEM unless otherwise agreed. Cost TBD based on work being performed; indicative rate of $[redacted] / man hr.
GT Baseline	Standard equipment drivers	Driver labor for forklift, man lift operators, etc.	- Fees (TBD) shall be payable by OEM unless otherwise agreed. Cost TBD based on work being performed; indicative rate of $[redacted] / man hr.
GT Baseline	Basic Scrap Management	Scrap management of basic materials such as misc. steel and other scrap as part of de-mob or regular wear and tear such as plates, wires, bolts etc.	- Fees (TBD) shall be payable by OEM unless otherwise agreed. Cost TBD based on work being performed; indicative rate of $[redacted] / man hr. for management and to be deducted from scrap credit.
GT Baseline	Waste Management	All waste disposal based on customer requirement, sewage handling as needed.	Agreeement and costs (TBD) directly with OEM (NEO to remain involved through development)
Direct OEM request	Specialty equipment drivers	Specialty logistical equipment drivers/ labor support as specially requested by OEM.	Agreeement and costs (TBD) directly with OEM (NEO to remain involved through development)
Direct OEM request	Specialty services & Site refurbishments	Special requested refurbishments or site modifications either directly or via market quoting and contractor management (in collaboration with customer). Does not include typical and required site upkeep. Adhoc requests such as including welding, mechanic, carpenter.	Agreeement and costs (TBD) directly with OEM (NEO to remain involved through development)
Direct OEM request	Specialty Scrap Management	Scrap management of specialty materials such as SGRE specific transport equipment, frames, cradles, yokes etc. which damaged and may otherwise be returned as part of 'reverse logistics' set-up.	Agreeement and costs (TBD) directly with OEM (NEO to remain involved through development)
Direct OEM request	Inventory Management software	GT has an inventory system that can be provided upon request.	Agreeement and costs (TBD) directly with OEM (NEO to remain involved through development)

Sublease Annex C (sample)

INVOICE

Gateway New London LLC
200 State Pier Road
New London, CT 06320
P: (203) 467-1997
E: accountspayable@gatewayt.com

BILL TO:		
North East Offshore LLC c/o Orsted North America, Inc. 100 International Place 100 Oliver Street, Suite 2610 Boston, MA 02110 Attn: Charles R. Scott	Document Date: Reference Number: Due Date:	12/31/2019 000667 Due five (5) Business Days after the funding by the Authority and NEO to the Escrow Agent

DESCRIPTION	PRICE
Total make whole reimbursement due as of December 31, 2019	$1,368,254.47

Calculation Detail:

Net Operating Loss as Reported as of December 31, 2019, net of legal fees		$1,201,587.80
CPA Annual Fee Paid May 2019 (i)		500,000.00
Less Amortized Annual CPA fee (i)		-333,333.33
	Total:	$1,368,254.47

(i) The CPA annual fee of $500,000 was paid in full on May 1, 2019 but is being amortized on a straight-line basis over 12 months for accounting purposes. Therefore, the invoiced amount includes reimbursement for the full $500,000 paid by Enstructure.

See attached Income Statement for buildup of the year-to-date operating loss.

	TOTAL:	**$1,368,254.47**

GATEWAY NEW LONDON LLC

BANKING INSTRUCTIONS FOR WIRE TRANSFERS

M&T BANK
303 SOUTH BROADWAY SUITE 130
TARRYTOWN, NY 10591

ACCOUNT #: 9875736325
ABA#: 022000046
SWIFT CODE: MANTUS33
ACCOUNT NAME: GATEWAY NEW LONDON, LLC
400 WATERFRONT STREET
NEW HAVEN, CT 06512

GATEWAY NEW LONDON

Quarterly Report for the period ended December 31, 2019

FINANCIAL AND OPERATIONS REPORT

Gateway New London December 2019 Financial Report

Summary

This report covers the operating period through December 31, 2019 for Gateway New. Revenues during the last quarter of the calendar year were the highest since operations commenced, primarily due to greater vessel activity in December. Expenses continue to be comprised primarily of equipment rental costs, labor, and professional services, which is consistent with the composition of modeled costs.

Year-to-date (YTD) EBITDA margin remains negative, as many of the costs necessary to run operations are somewhat fixed and revenue-generating activity has not covered operating expenses. As scheduled below, YTD loss before the make-whole accrual is approximately $1.2M; the Income Statement and Balance Sheet reflect a receivable due from Baystate Wind to get the terminal to virtually breakeven.

From a cash flow and balance sheet perspective, the terminal continued to be infused with cash for working capital needs by Gateway New Haven, bringing intercompany payables to approximately $1.4M.

High-Level Financials:

New London Terminal
December 2019 Financial Statements

Income Statement

	Month		YTD	
Revenue				
Terminal	767,413	100.0%	2,190,011	98.9%
Trucking	-		24,430	1.1%
Total revenues	**767,413**	100.0%	**2,214,441**	100.0%
Cost of goods sold				
Cost of materials	-		-	
Subcontractor Costs	-		19,441	0.9%
Payroll and related	189,392	24.7%	821,157	37.1%
Fuel	7,001	0.9%	28,895	1.3%
Repairs & Maintenance	1,149	0.1%	72,054	3.3%
Equipment Rental	132,545	17.3%	1,015,464	45.9%
All Other	-		-	
Total cost of goods sold	**330,088**	43.0%	**1,957,011**	88.4%
Gross Profit	437,325		257,430	
Operating Expenses				
Insurance	13,433	1.8%	130,931	5.9%
Utilities	9,168	1.2%	49,882	2.3%
CPA Fees - % of Revenue	169,543	22.1%	534,740	
CPA Fees - Annual Fee Amort.	41,667	5.4%	333,335	15.1%
Meals & Travel	-		533	0.0%
Professional Services	102,825	13.4%	268,984	12.1%
Other operating expense	18,591	2.4%	192,767	8.7%
Total operating expenses	**355,227**	46.3%	**1,511,171**	68.2%
EBITDA	**82,098**		**(1,253,741)**	
Other Expenses (Income)				
Make Whole Reimbursement	134,251		(1,201,589)	
Depreciation	-		-	
Amortization	-		-	
Federal & State Corporate Tax	-		-	
Gain (Loss) on Sale	-		-	
Interest	-		-	
Total Other Expenses (Income)	134,251		(1,201,589)	
Net Ordinary Income (Loss)	**$ (52,153)**		**$ (52,152)**	

Balance Sheet
12/31/2019

Assets			**Liabilities**	
Current Assets			**Current Liabilities**	
Cash		$ 6,848	Accounts Payable, trade	$ 245,876
Accounts Receivable, Trade		807,278	Accrued Payroll	85,827
Accounts Receivable, Other		1,201,588	Accrued Expenses	219,919
Inventory		-	Deferred Revenue	126,112
Prepaids and other current assets:			Payable to CPA	188,354
Prepaids and deposits	12,260		Intercompany, net	1,381,705
CPA annual payment	166,667		**Total Current Liabilities**	**2,247,793**
Prepaids and other current assets		178,927	**Noncurrent Liabilities**	
Total Current Assets		**2,194,641**	Long Term Debt (net)	-
			Other noncurrent liabilities	-
Property, Plant & Equipment (net)		1,000	**Total Liabilities**	**2,247,793**
Other Long Term Assets		-		
			Equity	(52,152)
Total Assets		**$ 2,195,641**	**Total Liabilities and Equity**	**$ 2,195,641**

Revenue and Receivables

Top five customer receivables are as follows. Collections efforts are being actively managed.

Customer	Balance
DRIVEN ENTERPRISES	373,839
CONCORD RESOURCES LTD.	201,761
NEW ENGLAND STEAMSHIP AGEN	71,151
MORAN SHIPPING	66,097
SKANSKA	57,180

Expenses and Payables:

Expenses are primarily comprised of equipment rental fees and operating supplies paid and payable to Summit Handling, United Rentals, Pine Bush Equipment and a handful of other vendors. Payroll costs consist of direct labor paid to employees of GT New London; Professional Services are mostly IT-related expenses and Port Security. Insurance expense is based on allocated annual premiums.

Other Notable Financial Items:

- The annual fixed fee paid to the CPA of $500,000 was treated as a prepaid expense and is being amortized over 12 months at $41,667 per month.

- Deferred revenue shown on the B/S as a liability is the amount collected from customers for which reloading services have yet to be performed by the Company. See the schedule below. Per generally accepted accounting principles, it is only once the reloading service has been provided that revenue can be recognized; until then, the amounts collected are treated similar to customer deposits.

Deferred Revenue

	Amount Collected	Amount Recognized	Balance
Meever	7,662	(7,662)	0
Summitt	25,859		25,859
Concord	50,501	(28,788)	21,713
Ultrabulk	76,410	(23,191)	53,219
stamford Metals	55,675	(38,356)	17,319
Thyssen	7,561	(7,561)	(0)
Atlantic	1,864		1,864
Ocean	7,603	(1,466)	6,137
Arcelor	8,330	(8,330)	0
Arcelor	32,650	(32,650)	(0)
Arcelor	13,525	(13,525)	(0)
Total Deferred Revenue	287,641	(161,529)	126,112

- Intercompany payables to Gateway New Haven for working capital cash funding

May-September	$491,225
October-December	390,480
	$881,705

- The payable to Enstructure LLC includes the funding of the $500,000 annual payment to the CPA as well as other fees paid by Enstructure.

- Variable Fees owed to the CPA related to generated revenues have been calculated as follows:

	Revenue	Variable Rate	Amount Owed	Amount Paid	Amount Outstanding
Stevedoring, Handling & Storage Revenue					
October	$ 240,314	7.0%	$ 16,822	$ -	$ 16,822
November	$ 28,400	7.0%	$ 1,988	$ -	$ 1,988
December	$ 635,571	7.0%	$ 44,490	$ -	$ 44,490
Amount to meet Minimum Annual Guarantee ($125K/Qtrly)			**$ 61,700**	**$ -**	**$ 61,700**
Total Q4' 2019 Payment	**$ 904,286**		**$ 125,000**	**$ -**	**$ 125,000**
Wharfage & Dockage Fees					
October	$ 89,927	50.0%	$ 44,964	$ (44,964)	$ -
November	$ 34,174	50.0%	$ 17,087	$ (17,087)	$ -
December	$ 127,334	50.0%	$ 63,667	$ -	$ 63,667
Total Q4' 2019 Payment	**$ 251,434**		**$ 125,717**	**$ (62,050)**	**$ 63,667**

Gateway New London December 2019 Operations Report

During October and November there continued to be limited activity from the perspective of reloading bulk materials already on site and related to incoming vessel activity. However, December proved to be our most active and profitable month due to the two vessels received. See the deferred revenue schedule in the Financial section above for throughput/materials handling; see below for the vessel report for the period. There have been no unforeseen occurrences, accidents or injuries, damages, losses or disruptions to the business to report.

VESSEL REPORT

200 State Pier Road
New London, CT 06320

GATEWAY NEW LONDON LLC

Vessel Name	Arrival Date	Departure Date	Cargo Handled	Unloaded/ Loaded	Tons(MT)
BBC Eagle	December 15th	December 19th	Copper	Unloaded	8,877
Tai Honesty	December 15th	December 21st	Salt	Unloaded	41,405

Schedule 2

INSURANCE requirements of Gateway

Gateway shall provide and maintain, or cause any of Gateway's Subcontractors who are providing services under the Sublease to provide or maintain, the types and amounts of insurance set forth in this Schedule 2 at all times during the Term. The insurance carriers providing insurance as described in this Schedule 2 shall have an A.M. Best Financial Rating of "A-" or better and a financial size category of "IX" or higher with limits, or if unrated, such carriers shall be acceptable to all Parties, which acceptance shall not be unreasonably withheld.

Gateway shall procure and maintain the following insurance:

Workers' Compensation Insurance; Employer's Liability Insurance. Employer's liability Insurance with a one million US Dollars ($ 1,000,000) limit per accident and disease. If Work is to be performed on or near navigable waters, the policy shall include the maritime coverage endorsement including coverage for the Jones Act (including all transportation, wages, maintenance and cure), the Death on the High Seas Act and other applicable maritime Laws and Codes and provide further that a claim in rem shall be treated as a claim against the employer. A maritime employers' liability and/or protection and indemnity policy may be used to satisfy applicable parts of this requirement with respect to Work performed on or near navigable waters.

Workers' Compensation Insurance (including occupational disease) as required by the statutory benefit laws of the state or states where the Services are to be performed (or any associated Materials and Equipment created) or as required by any other state where the employee performing the Services (or creating, assembling, delivering, or otherwise working on any associated Materials and Equipment) is normally employed, or approval as a qualified self-insurer as required by applicable state laws. If Work is to be performed on or near navigable waters, the policy shall include coverage for the United States Longshoreman's and Harbor Workers' Act, the Outer Continental Shelf Lands Act and other applicable maritime Laws and Codes. Such insurance shall include an "Alternate Employer Endorsement."

Commercial General Liability Insurance. Commercial liability insurance against claims for personal injury (including bodily injury and death) and property damage. Such insurance shall provide coverage for products liability/completed operations (which coverage shall remain in effect for a period of at least three years following the Term), blanket contractual, explosion, collapse and underground coverage, broad form property damage, and personal injury insurance, with a fifty million US Dollars ($50,000,000) minimum limit per occurrence for combined bodily injury and property damage. The commercial general liability insurance policy shall be endorsed to provide primary and non-contributing liability. Coverage shall include stevedore and wharfingers liability.

Automobile Liability Insurance. Automobile liability insurance against claims of personal injury (including bodily injury and death) and property damage, including automobile uninsured/underinsured motorist protection endorsements, covering all owned (if any), leased, non-owned and hired vehicles used in the performance of Gateway's or Subcontractor's

obligations under this Contract with a one million US Dollars ($1,000,000) minimum limit per occurrence for combined bodily injury and property damage and containing appropriate no-fault insurance provisions wherever applicable

Protective and Indemnity Insurance. To the extent Gateway or any Gateway Subcontractor operates Vessels in connection with the performance of the Work for the Project, Gateway and Subcontractor shall maintain: Protection and Indemnity Insurance including contractual liability, collision liability, specialist operations, tower's liability, and pollution buy-back endorsement, wreck removal and removal of debris coverage extensions and specialist operations including, but not limited to, dredging, pile driving, cable laying, heavy lifts and installation or its equivalent with limits of at least fifty million US Dollars ($50,000,000) each occurrence. However, with regards to small value workboats and other vessels not involved in major installation activities, lesser amounts of Protection and Indemnity Insurance may be allowable, however never less than five million US Dollars ($5,000,000) each occurrence;

Gateway shall carry Vessel Pollution Insurance subject to not less than the full limits and conditions available through the Water Quality Insurance Syndicate or its equivalent for OPA, CERCLA and other substances coverage; and Hull and Machinery Insurance not less than the full replacement value.

Property Insurance. "All Risk" Property Damage insurance covering the Port Facilities shall be procured and maintained by Gateway pursuant to the terms of the Concession Agreement. Coverage shall be provided on full value basis. Such property insurance shall be procured for the benefit of NEO as though NEO were a party to the Concession Agreement. The waiver of subrogation in the Concession Agreement shall apply equally as to NEO.

Additional Insured. To the fullest extent permitted by law, Gateway and Subcontractors shall cause the commercial general liability coverage to include NEO as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of NEO's general liability insurance policies and shall apply to both ongoing and completed operations. The additional insured endorsement should be a scheduled endorsement naming Bay State Wind, LLC as an additional insured. A copy of the additional insured endorsement shall be provided to NEO.

Schedule 3
INSURANCE requirements of NEO.

NEO shall provide and maintain, or cause any of NEO's OEMs operating at the Port Facilities to provide or maintain, the types and amounts of insurance set forth in this Schedule 3 at all times during the Term. The insurance carriers providing insurance as described in this Schedule 3 shall have an A.M. Best Financial Rating of "A-" or better and a financial size category of "IX" or higher with limits, or if unrated, such carriers shall be acceptable to all Parties, which acceptance shall not be unreasonably withheld.

NEO shall procure (or so cause to be procured) and maintain the following insurance:

Workers' Compensation Insurance; Employer's Liability Insurance. Worker's Compensation Insurance and Employer's Liability Insurance (including occupational disease) to cover statutory benefits and limits of the Worker's Compensation laws of any applicable jurisdiction in which any work is to be performed hereunder, and with such Employer's Liability Insurance to have a coverage limit of $1,000,000 per accident and $1,000,000 per disease per employee and in the aggregate for disease.

Commercial General Liability Insurance. Commercial liability insurance against claims for personal injury (including bodily injury and death) and property damage. Such insurance shall provide coverage for liability arising from independent contractors, products liability/completed operations, blanket contractual, explosion, collapse and underground coverage, broad form property damage "sudden and accidental" pollution coverage, , and personal injury insurance, with policy limits of not less than fifty million US Dollars ($50,000,000) per occurrence and general aggregate. Either under this policy or by separate policy, NEO shall procure and maintain pollution coverage with a one million US Dollars ($1,000,000) minimum limit. A claims made form is acceptable for the pollution coverage.

Automobile Liability Insurance. Automobile liability insurance against claims of personal injury (including bodily injury and death) and property damage, including automobile uninsured/underinsured motorist protection endorsements, covering all owned (if any), leased, non-owned and hired vehicles used in the performance of the NEO's operations pursuant to this Sublease Agreement with a three million US Dollars ($3,000,000) minimum limit per occurrence for combined bodily injury and property damage and containing appropriate no-fault insurance provisions wherever applicable

Protective and Indemnity Insurance. To the extent the NEO or any of its OEMs operates Vessels in connection with use of the Port Facilities, NEO shall maintain or cause such OEMs to maintain Protection and Indemnity Insurance including contractual liability, collision liability, specialist operations, tower's liability, and pollution buy-back endorsement, wreck removal and removal of debris coverage extensions and specialist operations including, but not limited to, dredging, pile driving, cable laying, heavy lifts and installation or its equivalent with limits of at least fifty million US Dollars ($50,000,000) each occurrence. However, with regards to small value workboats and other vessels not involved in major installation activities, lesser amounts of

Protection and Indemnity Insurance may be allowable, however never less than five million US Dollars ($5,000,000) each occurrence;

NEO shall carry (or cause its OEMs to carry) Vessel Pollution Insurance subject to not less than the full limits and conditions available through the Water Quality Insurance Syndicate or its equivalent for OPA, CERCLA and other substances coverage;

Hull and Machinery Insurance: To the extent that NEO, its subcontractors, or any of its OEMs operates Vessels in connection with use of the Port Facilities, NEO, its subcontractors, or any of its OEMs shall maintain Hull and Machinery Insurance under the American Institute Hull Clauses (June 2, 1977) or equivalent. Such insurance shall be endorsed specifically to include the following:

1. Waiver of subrogation in favor of Gateway.
2. Where legally permitted, Gateway shall be named as an additional assured.

Contractor Equipment/Inland Marine Insurance: To the extent that NEO, its subcontractors, or OEMs operates mobile equipment in connection with use of the Port Facilities, NEO, its subcontractors, or OEMs shall procure and maintain "All Risk" contractor equipment/inland marine insurance. Coverage shall be provided on full value basis. Such insurance shall be endorsed specifically to include the following:

1. Waiver of subrogation in favor of Gateway.
2. Where legally permitted, Gateway shall be named as an additional assured.

Additional Insured. To the fullest extent permitted by law, NEO shall cause the commercial general liability coverage to include the Authority and Gateway as additional insureds for claims caused in whole or in part by the negligent acts or omissions of NEO or an applicable OEM, which occur during the Term. The additional insured coverage shall be primary and non-contributory to any of Gateway or Gateway's general liability insurance policies and shall apply to both ongoing and completed operations. The additional insured endorsement should be a scheduled endorsement naming Connecticut Port Authority and Gateway New London, LLC as additional insureds. A copy of the additional insured endorsement shall be provided to Gateway and Gateway.

Schedule 4

Connecticut Port Authority
Procurement and Contracting Requirements

Section 1.1 Whistleblower Protection. If any officer, employee or appointing authority of Gateway or NEO takes or threatens to take any personnel action against any employee of Gateway or NEO, respectively, in retaliation for such employee's disclosure of information to the Auditors of Public Accounts or the Attorney General under the provisions of Connecticut General Statutes Section 4-61dd, Gatway and/or NEO, as applicable, shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and direct offense. Gateway and NEO shall post a notice in a conspicuous place which is readily available for viewing by employees of the provisions of Connecticut General Statutes Section 4-61dd relating to large state contractors.

Section 1.2 Campaign Contribution And Solicitation Prohibitions. For all State of Connecticut contracts as defined in Section 9-612 of the Connecticut General Statutes having a value in a calendar year of $50,000 or more or a combination or series of such agreements or contracts having a value of $100,000 or more, the authorized signatories of Gateway and NEO to this Agreement each expressly acknowledge receipt of the State Elections Enforcement Commission's notice, SEEC Form 10 in Exhibit C, advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice.

Section 1.3 Contractor's Certification Concerning Gifts. At the time of Gateway's and NEO's execution of this Agreement, Gateway and NEO each simultaneously, if applicable, executed a document entitled Contractor's Certification Concerning Gifts and said document is attached hereto and made a part of this Agreement as Exhibit D.

Section 1.4 Acting Chairperson's Certification Concerning Gifts. At the time of the Acting Chairperson's execution of this Agreement, the Acting Chairperson simultaneously, if applicable, executed a document entitled Acting Chairperson's Certification Concerning Gifts and said document is attached hereto and made a part of this Agreement as Exhibit E.

Section 1.5 Iran Certification Form. At the time Gateway and NEO executed this Agreement, Gateway and NEO each simultaneously, if applicable, executed a document entitled Iran Certification Form and said document is attached hereto and made a part of this Agreement as Exhibit F.

Exhibit A

Certain Concession Agreement Provisions

In this Exhibit A to Sublease Agreement, unless the subject or context otherwise requires, capitalized terms shall have the meanings given to them in the Sublease Agreement, or if not defined in the Sublease Agreement, in Part I of Annex A of the Concession Agreement. However, for the avoidance of doubt, "Project" as used in this Exhibit A has the meaning provided in the Sublease Agreement and not in the Concession Agreement. This Exhibit A forms an integral part of the Sublease Agreement pursuant to Section 10 thereof. (This Exhibit A is also Schedule 5 to the Harbor Development Agreement and applies during the term thereof pursuant to Section 9.4.3 thereof.) Unless otherwise stated, references in this Exhibit A to sections refer to sections in the Concession Agreement.

Subject to the provisions set forth in Sections 2.4, 5.2.4 and 5.2.5 of the Harbor Development Agreement, the Authority and Gateway agree upon the following terms and provisions relating to the Concession Agreement:

1. This Exhibit A to Sublease Agreement (and also Schedule 5 to the Harbor Development Agreement) forms a part of the Concession Agreement (Section 1.4). In the event of ambiguities or discrepancies among the several documents forming the Concession Agreement, the priority of the documents forming the Concession Agreement shall be first this Exhibit A to Sublease Agreement, and then as provided in Section 1.5 of the Concession Agreement.

2. Once the Project work commences, for the avoidance of doubt, notwithstanding Gateway's acceptance of the Site from the Authority in "AS IS" condition pursuant to Section 2.1.2 of the Concession Agreement, Gateway reserves any rights it may have under Sections 5.4, 5.5 and 16.2.6 of the Harbor Development Agreement in respect of Substantial Completion and Final Acceptance of the Project, including any available construction and design warranties from third parties. Subject to the preceding sentence, after the occurrence of Substantial Completion under the Harbor Development Agreement, Gateway's suspension of operation will end as provided in Sections 5.6.1 and 9.4.1 of the Harbor Development Agreement and Gateway will resume control of and responsibility for ongoing port operations.

3. For such period of time as the Sublease Agreement is continuing and in full force and effect, the last sentence of Section 2.2.1(d) of the Concession Agreement regarding annual notice by Gateway of all Movable Property and Fixtures and Fittings acquired by Gateway is suspended insofar as it pertains to the Capital Improvements Commitment under Section 9.4.1 of the Concession Agreement. The Authority, Gateway and NEO nonetheless shall maintain in their respective records appropriate documentation of which Movable Property, Fixtures and Fittings are acquired by such Party.

4. Commencing with the Project work through the term of the Harbor Development Agreement, and thereafter for such period as the Sublease Agreement is continuing and in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway will (i) be required to make the Variable Fee payment only under clause (a), but not under clause (b), of

Section 2.4.2 of the Concession Agreement, and (ii) not be required to make Annual Fixed Fee payments or Minimum Annual Guarantee payments (Sections 2.4.1 and 2.4.2 of the Concession Agreement).

5. During the term of the Harbor Development Agreement and thereafter for such period of time as the Sublease Agreement is continuing and in full force and effect, the requirement for Gateway to provide a Letter of Credit to the Authority is suspended (Section 2.4.3 of the Concession Agreement).

6. As reflected in Sublease Agreement Recital E the Project is the "BSW Development" and thus in accordance with the terms of Section 2.4.4 of the Concession Agreement, upon the execution of the Harbor Development Agreement, Gateway is no longer responsible for reimbursement of costs in respect of any feasibility study concerning wind energy uses (Section 2.4.4 of the Concession Agreement).

7. During the term of the Harbor Development Agreement, Gateway's agreement to assume and discharge or perform when due all debts and obligations whatsoever relating to the Site, the Port Facilities and the Port Services is modified, and thereafter for such period of time as the Sublease Agreement is continuing and in full force and effect, to not apply insofar as pertains (i) to all debts and obligations whatsoever relating to the Project construction and (ii) to NEO's obligations under the Harbor Development Agreement and under the Sublease Agreement (Section 2.7 of the Concession Agreement).

8. For such period of time as the Sublease Agreement is in full force and effect, and no Gateway Event of Default has occurred thereunder, Gateway's obligation to accommodate and to use reasonable efforts to coordinate the Ferry berthing is suspended (Section 7.2.3 of the Concession Agreement).

9. While the Project is under construction, and further thereafter during NEO's Active Periods (as defined in the Sublease Agreement) and for such period of time as the Sublease Agreement is in full force and effect, and no Gateway Event of Default has occurred thereunder, Gateway's obligations to operate the Port Facilities to provide Port Services (except for specified services to NEO and the OEMs, as defined in the Sublease Agreement) and to maximize Throughput Volume are suspended (Concession Agreement Sections 2.3.1, 2.3.2, 8.1, and 8.8, and Annex B Paragraph 6).

10. For such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway and the Authority each acknowledge, as to itself, that there are no Cranes owned or leased by Gateway or the Authority on the Site, and no Cranes will be installed by Gateway as part of the Project, and therefore Cranes are excluded from Gateway's obligations (Sections 2.2.1(d), 9.1, 9.2, 9.3, and 15.6.7, and Annex B Paragraphs 2.1 and 2.4, and other references of the Concession Agreement). It is acknowledged that any new mobile heavy lift crane is an OEM item.

11. During the Project until Final Acceptance under the Harbor Development Agreement and for such period of time as the Sublease Agreement is in full force and effect, and no Gateway Event of Default has occurred thereunder, Gateway's obligation to maintain the Site and the Port

Facilities in good, sanitary and safe working condition is suspended except as it relates to specified services to NEO and the OEMs, as defined in the Sublease Agreement. Furthermore, during the Project and for such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway's obligations under Section 9.2 of the Concession Agreement to periodically overhaul, rehabilitate, refurnish or replace components or elements of the Site and the Port Facilities is suspended until Final Acceptance under the Harbor Development Agreement except as it relates to specified services to NEO and the OEMs, as defined in the Sublease Agreement.

12. For such period of time as the Harbor Development Agreement is in full force and effect, Gateway's obligation to restore and repair damaged or destroyed parts of the Site or the Port Facilities under Section 9.3 of the Concession Agreement is suspended insofar as pertains to damage or destruction caused by EPC Contractor or the Authority (Section 9.3 and Annex B Paragraph 2.5 of the Concession Agreement); provided, however, that Section 9.3 of the Concession Agreement will apply to any structural damage to the State Pier that the Authority identifies in writing (with reasonable supporting documentation) to Gateway no later than thirty (30) days after Gateway ceases pier operations as having been caused by Gateway. For such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway's obligation to restore and repair damaged or destroyed parts of the Site or the Port Facilities under Section 9.3 is suspended insofar as pertains to damage or destruction caused by NEO or an OEM (Section 9.3 and Annex B Paragraph 2.5 of the Concession Agreement). In other respects and at other times, Gateway shall undertake to promptly restore damage or destruction to the extent of available insurance proceeds and as required by the Concession Agreement.

13. During the term of the Harbor Development Agreement and thereafter for such period of time as the Sublease Agreement is in full force and effect, and no Gateway Event of Default has occurred thereunder, Gateway's Capital Improvements Commitment under Section 9.4 is thereby satisfied by the provision of NEO's funding commitments under the Harbor Development Agreement. Nonetheless, during Idle Periods (as defined in the Sublease Agreement), Gateway agrees to have the requisite equipment needed to perform the Port Services.

14. It is agreed that the quarterly reports provided under Section 10.5 of the Concession Agreement shall be provided on a calendar quarter basis, as with the reports under Section 10.4 of the Concession Agreement.

15. During the Project and thereafter for such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway's responsibility to provide an Annual Environmental Report is suspended (Section 10.8 of the Concession Agreement). Additionally, during the Project Gateway will not be responsible for coordinating mitigation plans and for compliance with obligations set forth as part of the permits for the Project (Exhibit B Section 3.1 of the Concession Agreement).

16. Gateway's obligations to indemnify the Authority Indemnified Parties under Section 12 of the Concession Agreement shall not extend to the actions or omissions of NEO or any OEM or otherwise arising out of or as a consequence of any claim or action by any Person employed by NEO or any OEM.

17. During the Project, the insurance provisions of the Harbor Development Agreement will prevail over the insurance provisions of the Concession Agreement, and Gateway's insurance requirements are suspended but only for such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder. Without limiting the foregoing and for such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway's requirement to procure property insurance under the Concession Agreement is suspended.

18. Pursuant to Section 22.1 of the Concession Agreement, Gateway hereby provides notice to the Authority that the address for the copy of notices to Gateway is changed to be:

Phelps Dunbar, L.L.P.
365 Canal Street, Suite 2000
New Orleans, Louisiana 70130
Attn: James A. Stuckey

19. During the Project and thereafter for such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default (excluding for this paragraph a Gateway Event of Default arising solely from Sublease Agreement Section 12.4.3) has occurred thereunder, the berths at the Site will have been fundamentally altered by the Project, and Gateway is relieved of any obligation to share in dredging costs (Annex B Paragraphs 2.5 and 2.6 of the Concession Agreement).

20. During the Project and thereafter for such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway's responsibilities for security and utilities may be altered in coordination and agreement with the EPC Contractor under the Harbor Development Agreement (Annex B Paragraphs 2.11 and 2.15 of the Concession Agreement).

Exhibit B

Intentionally Omitted

EXHIBIT C

(SEEC FORM 10 ATTACHED)

Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

Acknowledgement of Receipt of Explanation of Prohibitions for Incorporation in Contracting and Bidding Documents

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined on the reverse side of this page).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract* or *state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall **knowingly** *solicit* contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor* or *principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—Up to $2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to $2,000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than $5,000 in fines, or both.

CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may resulting the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.

ACKNOWLEDGEMENT OF RECEIPT

SIGNATURE

DATE (mm/dd/yyyy)

NAME OF SIGNER

First Name	MI	Last Name	Suffix

TITLE

COMPANY NAME

Additional information may be found on the website of the State Elections Enforcement Commission,
www.ct.gov/seec
Click on the link to "Lobbyist/Contractor Limitations"

Exhibit C-5

EXHIBIT D

CONTRACTOR'S CERTIFICATION CONCERNING GIFTS

(See form attached)

(See also OPM Ethics Form 1)

Connecticut PORT AUTHORITY

CONTRACTOR'S CERTIFICATION CONCERNING GIFTS

Sublease Agreement

(This CERTIFICATION is to be signed by an authorized officer of the Contractor or the Contractor's managing general partner.)

Section 4-252 of the *Connecticut General Statutes* requires that a Contractor (i.e., the successful bidder/proposer/statement of qualifications submitter for an Agreement) complete and properly execute this Certification Concerning Gifts at the same time that the Contractor executes the Agreement. If the Contractor fails to make the required certifications, the Contractor shall be disqualified for the Agreement.

I,_____, a duly authorized officer and/or representative of _____(firm name) (the "Contractor"), being duly sworn, hereby depose and say that:

1. I am over eighteen (18) years of age and believe in the obligations of an oath; and

2. The Contractor has submitted a bid for the "SUBLEASE AGREEMENT" (the "Agreement") to the Connecticut Port Authority ("CPA"), and has been selected by CPA as the successful bidder/proposer/SOQ submitter for the Agreement and is prepared to enter into the Agreement with CPA; and

3. No gifts were made between [***INSERT DATE OF RFP/PROPOSAL***] and the date of execution of the Agreement, by

(a) The Contractor,

(b) Any principals and key personnel of the Contractor who participated substantially in preparing the Contractor's bid/proposal/statement of qualifications for or the negotiation of the Agreement, or

(c) Any agent of the Contractor or principals and key personnel who participated substantially in preparing the Contractor's bid/proposal/statement of qualifications for or the negotiation of the Agreement

to

(1) Any public official or employee of CPA who participated substantially in the preparation of the bid/proposal/qualifications solicitation for or the negotiation or award of the Agreement (such CPA employees are listed in Table 2 below), or

(2) Any public official or state employee of any state agency who has supervisory or appointing authority over CPA (such public officials and state employees are listed in Table 3 below); and

4. No such principals and key personnel of the Contractor or agent of the Contractor or principals and key personnel knows of any action by Contractor to circumvent the prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the Contractor to provide a gift to any such public official or state employee; and

5. The Contractor made the bid/proposal/statement of qualifications for the Agreement without fraud or collusion with any person;

The information set forth herein is true, to the best of my knowledge and belief, subject to the penalties of false statement.

TABLE 2: CPA Substantial Participants in the Preparation of the Request for Bids for the Agreement

David Kooris, Acting Chairperson
Joseph Salvatore, Project Manager

TABLE 3: Public Officials and State Employees of State Agencies Who Have Supervisory or Appointing Authority over CPA

Governor Edward M. Lamont, Jr.
Senator Martin Looney, President Pro Tempore of the Senate
Representative Joe Aresimowicz, Speaker of the House of Representatives
Representative Themis Klarides, Minority Leader of the House of Representatives
Senator Bob Duff, Majority Leader of the Senate
Senator Len Fasano, Minority Leader of the Senate

Signature: _____
Name (type/print): _____
Title: _____
State Of: _____
County Of: _____

_____, being fully sworn, deposes and says that

he/she is the _____ (Title) of

_____ (Firm Name), the Contractor herein, that he/she has read the foregoing statement concerning gifts, and, under the penalty of perjury, certifies that each and every part of said statement is true to his/her best knowledge and belief.

Sworn to before me this _____ day of _____ 20____

_____ _____
Notary Public/Commissioner of the Superior Court Commission Expiration Date

For the purposes of this Certification Concerning Gifts, the following terms are defined as follows:

"Gift" means anything of value, which is directly and personally received, unless consideration of equal or greater value is given in return. "Gift" shall **not** include:

A political contribution otherwise reported as required by law or a donation or payment as described in subdivision (9) or (10) of subSection (b) of Section 9-601a of the *Connecticut General Statutes*;

Services provided by persons volunteering their time, if provided to aid or promote the success or defeat of any political party, any candidate or candidates for public office or the position of convention delegate or town committee member or any referendum question;

A commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business;

A gift received from (A) an individual's spouse, fiance or fiancee, (B) the parent, brother or sister of such spouse or such individual, or (C) the child of such individual or the spouse of such child;

Goods or services (A) which are provided to a state agency or quasi-public agency (i) for use on state or quasi-public agency property, or (ii) that support an event , and (B) which facilitate state or quasi-public agency action or functions. As used in this Affidavit Concerning Gifts, "state property" means (i) property owned by the state or a quasi-public agency, or (ii) property leased to a state agency or quasi-public agency;

A certificate, plaque or other ceremonial award costing less than one hundred dollars;

A rebate, discount or promotional item available to the general public;

Printed or recorded informational material germane to state action or functions;

Food or beverage or both, costing less than fifty dollars in the aggregate per recipient in a calendar year, and consumed on an occasion or occasions at which the person paying, directly or indirectly, for the food or beverage, or his representative, is in attendance;

Food or beverage or both, costing less than fifty dollars per person and consumed at a publicly noticed legislative reception to which all members of the General Assembly are invited and which is hosted not more than once in any calendar year by a lobbyist or business organization. For the purposes of such limit, (A) a reception hosted by a lobbyist who is an individual shall be deemed to have also been hosted by the business organization which he owns or is employed by, and (B) a reception hosted by a business organization shall be deemed to have also been hosted by all owners and employees of the business organization who are lobbyists. In making the calculation for the purposes of such fifty-dollar limit, the donor shall divide the amount spent on food and beverage by the number of persons whom the donor reasonably expects to attend the reception;

Food or beverage or both, costing less than fifty dollars per person and consumed at a publicly noticed reception to which all members of the General Assembly from a region of the state are invited and which is hosted not more than once in any calendar year by a lobbyist or business organization. For the purposes of such limit, (A) a reception hosted by a lobbyist who is an individual shall be deemed to have also been hosted by the business organization which he owns or is employed by, and (B) a reception hosted by a business organization shall be deemed to have also been hosted by all owners and employees of the business organization who are lobbyists. In making the calculation for the purposes of such fifty-dollar limit, the donor shall divide the amount spent on food and beverage by the number of persons whom the donor reasonably expects to attend the reception. As used in this subdivision, "region of the state" means the established geographic service area of the organization hosting the reception;

Gifts costing less than one hundred dollars in the aggregate or food or beverage provided at a hospitality suite at a meeting or conference of an interstate legislative association, by a person who is not a registrant or is not doing business with the state of Connecticut;

Admission to a charitable or civic event, including food and beverage provided at such event, but excluding lodging or travel expenses, at which a public official or state employee participates in his official capacity, provided such admission is provided by the primary sponsoring entity;

Anything of value provided by an employer of (A) a public official, (B) a state employee, or (C) a spouse of a public official or state employee, to such official, employee or spouse, provided such benefits are customarily and ordinarily provided to others in similar circumstances; or

Anything having a value of not more than ten dollars, provided the aggregate value of all things provided by a donor to a recipient under this subdivision in any calendar year shall not exceed fifty dollars.

Training that is provided by a vendor for a product purchased by a state or quasi-public agency which is offered to all customers of such vendor; or

Travel expenses, lodging, food, beverage and other benefits customarily provided by a prospective employer, when provided to a student at a public institution of higher education whose employment is derived from such student's status as a student at such institution, in connection with bona fide employment discussions.

"Participated substantially" means participation that is direct, extensive and substantive, and not peripheral, clerical or ministerial.

"Principals and key personnel" means officers, directors, shareholders, members, partners and managerial employees.

Exhibit D

EXHIBIT E

ACTING CHAIRPERSON'S CERTIFICATION CONCERNING GIFTS

(See form attached)

(See also OPM Ethics Form 3)

Connecticut PORT AUTHORITY

ACTING CHAIRPERSON'S CERTIFICATION CONCERNING GIFTS

This form must be completed and properly executed under penalty of false statement by a chief executive officer, president, chairperson, member or other corporate officer duly authorized to adopt company, corporate or partnership policy of the business entity submitting a bid/proposal/statement of qualifications to the Connecticut Port Authority.

SUBLEASE AGREEMENT

Awarded To

[_____]

(This CERTIFICATION is to be signed by the ACTING CHAIRPERSON of CPA at the time the Agreement is executed by him)

By submission of this Certification, the Acting Chairperson of the Connecticut Port Authority ("CPA") hereby certifies that the selection of the most qualified or highest ranked person, firm or corporation for the "Sublease Agreement" was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

Signature:_____

Name: **David Kooris**

Title: **Acting Chairperson**

State Of: **Connecticut**

County Of: **Hartford**

David Kooris, being fully sworn, deposes and says that he is the Acting Chairperson of the Connecticut Port Authority, that he has read the forgoing statement concerning collusion, the giving of gifts or the promise of gifts, compensation, fraud or inappropriate influence and, under the penalty of perjury, certifies that each and every part of said statement is true.

Sworn to before me this _____ day of _____ 20_____

Notary Public/Commissioner of the Superior Court

_____

EXHIBIT F

IRAN CERTIFICATION FORM

(See form attached)

(See also OPM Iran Certification Form 7)

Connecticut PORT AUTHORITY

IRAN CERTIFICATION FORM

This form must be completed and properly executed under penalty of false statement by a chief executive officer, president, chairperson, member or other corporate officer duly authorized to adopt company, corporate or partnership policy of the business entity submitting a bid/proposal/statement of qualifications to the Connecticut Port Authority.

I, _____(name), _____(title) of _____(firm name, hereafter "Contractor") an entity duly formed and existing under the laws of _____, being duly sworn, hereby depose that:

I am over the age of eighteen and understand and appreciate the obligations of an oath
Contractor seeks to enter into the "SUBLEASE AGREEMENT" (the "Agreement") with the Connecticut Port Authority; and
Contractor hereby certifies as follows:

Section 1: APPLICABILITY

Check applicable box *(must be completed regardless of where the Contractor's principal place of business is located):*

Contractor's principal place of business is within the United States or Contractor is a United States subsidiary of a foreign corporation. **Contractors who check this box are not required to complete the Section 2: Certification portion of this form, but are still required to complete Section 3 of this form.**

Contractor's principal place of business is outside the United States and it is not a United States subsidiary of a foreign corporation. **Contractors who check this box are required to complete all sections of this form.**

Please complete this form as specified in this Section 1 and submit it with the RFB, RFP or RFQ response or contract package if there was no RFB, FRP, or RFQ process.

Additional definitions.

"Large state contract" has the same meaning as defined in Section 4–250 of the Connecticut General Statutes;
"Contractor" means the person whose name is set forth at the beginning of this form; and
"State agency" and "quasi-public agency" have the same meanings as provided in Section 1–79 of the Connecticut General Statutes.

Section 2: CERTIFICATION

Pursuant to P.A. No. 13-162, upon submission of a bid, or prior to executing a large state contract if no bid process was conducted, **the certification portion of this form must be completed** by any corporation, general partnership, limited partnership, limited liability partnership, joint venture, nonprofit organization or other business organization **whose principal place of business is located outside of the United States.**

United States subsidiaries of foreign corporations are exempt. For purposes of this form, a "foreign corporation" is one that is organized and incorporated outside the United States of America.

CERTIFICATION:

I, the undersigned, am the official authorized to execute contracts on behalf of the Contractor. I certify that:

Contractor has made no direct investments of twenty million dollars or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010.

Contractor has either made direct investments of twenty million dollars or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, or Contractor made such an investment prior to October 1, 2013 and has now increased or renewed such an investment on or after said date, or both.

Section 3: AFFIRMATION

Note: This Section 3 must be completed even if Section 2 of this form was not required based on the responses in Section 1 of this form.

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

_____ _____

Printed Contractor Name **Printed Name of Authorized Official**

_____

Signature of Authorized Official

Subscribed and acknowledged before me this _____ day of _____, 20_____.

_____

Commissioner of the Superior Court (or Notary Public)

ANNEX E

FORM OF ESCROW AGREEMENT

ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated as of _____, 2020 ("Escrow Agreement"), is made by and among **CONNECTICUT PORT AUTHORITY**, a quasi-public body corporate and politic and a political subdivision of the State of Connecticut (the "Authority"), **NORTH EAST OFFSHORE, LLC**, a Delaware limited liability company ("NEO"), and **WEBSTER BANK, N.A.**, as Escrow Agent hereunder (together with its successors and assigns, "Escrow Agent").

Each of the Authority, NEO and Escrow Agent may hereinafter be referred to as a "Party" and two or more as "Parties".

BACKGROUND

A. An agreement, entitled the Harbor Development Agreement and dated as _____, 2020, which such agreement, as it may be amended, may hereinafter be referred to as the "Underlying Agreement" has been entered into by the Authority, NEO and Gateway New London, LLC ("Gateway").

B. Pursuant to the Underlying Agreement, the Authority and NEO are to enter into this Escrow Agreement and the Authority and NEO will deposit the sums set forth in Section 8.3 of the Underlying Agreement with Escrow Agent to be released in accordance with the terms of the Escrow Agreement.

C. The "Escrow Funds" (as defined below) shall be held in a segregated escrow account, Account Number 0023133712, in the name of the Authority to be held by Escrow Agent (the "Escrow Account") in accordance with the terms of this Escrow Agreement. Escrow Agent shall hold the Escrow Funds for the purpose of providing funds for the performance and completion of the Work and for other matters as provided for in the Underlying Agreement. The Escrow Account shall include any sub-accounts established by Escrow Agent as provided for in this Escrow Agreement.

D. Escrow Agent has agreed to accept, hold, and disburse the funds deposited with it in accordance with the terms of this Escrow Agreement.

E. The Authority and NEO have appointed the Authority and NEO Representatives (as each defined below) to represent them for all purposes in connection with the funds to be deposited with Escrow Agent and this Escrow Agreement.

F. In order to establish the escrow of funds, the Parties hereto have entered into this Escrow Agreement.

STATEMENT OF AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, for themselves, their successors and assigns, hereby agree as follows:

1. Definitions. The following terms shall have the following meanings when used herein:

"Authority DWW Funds" shall mean the funds to be deposited by the Authority with Escrow Agent pursuant to Section 3(a) below.

"Authority Escrow Funds" shall mean, collectively, the Authority DWW Funds, the Authority Phase 1 Funds and the Authority Phase 2 Funds.

"Authority Phase 1 Funds" shall mean the funds to be deposited by the Authority with Escrow Agent pursuant to Section 3(b) below.

"Authority Phase 2 Funds" shall mean the funds deposited with Escrow Agent by the Authority in accordance with the provisions of Section 8.3, Item 7 of the Underlying Agreement.

"Authority Representative" shall mean any of the persons so designated on Schedule A hereto or any other person designated in a writing signed by the Authority and delivered to Escrow Agent and the NEO Representative in accordance with the notice provisions of this Escrow Agreement, to act as its representative under this Escrow Agreement. Upon request of Escrow Agent, such person(s) will provide ID copies to Escrow Agent.

"Authority Written Direction" shall mean a written direction, executed by any Authority Representative, substantially in the form of Schedule B hereto, with copies to the NEO Representative, which directs Escrow Agent to disburse all or a portion of the Escrow Funds to the designated account of the Authority.

"Escrow Account" shall have the meaning set forth above in paragraph C under "Background".

"Escrow Funds" shall mean all funds deposited with Escrow Agent pursuant to Section 3 of this Agreement.

"Escrow Period" shall mean the period commencing on the date hereof and ending on the applicable termination date set forth on Schedule A hereto.

"Gateway Representative" shall mean the persons so designated on Schedule A hereto or any other person designated in a writing signed by Gateway and delivered to Escrow Agent and the Authority Representatives and NEO Representatives in accordance with the notice provisions of this Escrow Agreement, to act as its representative under this Escrow Agreement. Upon request of Escrow Agent, such person(s) will provide ID copies to Escrow Agent.

"Gateway Written Direction" shall mean a written direction, executed by any Gateway Representative, substantially in the form of Schedule C hereto with copies to the Authority Representative and the NEO Representative, which directs Escrow Agent to disburse all or a portion of the Escrow Funds to the designated account of Gateway, as further described in Section 4 below.

"NECR Lease" shall mean that certain Lease Agreement dated _____, 2020 by and between the Authority and New England Central Railroad, Inc.

"NECR Lease Funds" shall mean the funds further described in Section 3(c) below.

"NEO Additional Phase 2 Funds" shall mean the amount of $5,000,000, or such portions thereof subject to the terms of Sections 8.1.1(e) and 8.1.1(f) in the Underlying Agreement, as provided for in Section 8.3, Item 8 of the Underlying Agreement.

"NEO Escrow Funds" shall mean, collectively, the NEO Phase 2 Funds and the NEO Additional Phase 2 Funds.

"NEO Phase 2 Funds" shall mean the amount of up to $47,500,000 as provided for in Section 8.3, Items 5, 6 and 8 of the Underlying Agreement.

"NEO Representative" shall mean the persons so designated on Schedule A hereto or any other person designated in a writing signed by NEO and delivered to Escrow Agent and the Authority Representative in accordance with the notice provisions of this Escrow Agreement, to act as its representative under this Escrow Agreement. Upon request of Escrow Agent, such person(s) will provide ID copies to Escrow Agent.

"NEO Written Direction" shall mean a written direction, executed by any NEO Representative, substantially in the form of Schedule D hereto, with copies to the Authority Representative, which directs Escrow Agent to disburse all or a portion of the Escrow Funds to the designated account of NEO, as further described in Section 4 below.

"Remaining Authority DWW Funds" shall mean the funds further described in Section 3(c) below.

"Representatives" shall mean the duly authorized representatives of the Authority and NEO, as applicable.

"Written Direction" shall mean an Authority Written Direction, a NEO Written Direction, or a Gateway Written Direction, as applicable.

2. Appointment of and Acceptance by Escrow Agent. The Authority and NEO hereby appoint Escrow Agent to serve as escrow agent hereunder. Escrow Agent hereby accepts such appointment and, upon receipt by wire transfer of the Escrow Funds in accordance with Section 3 below, agrees to hold and disburse the Escrow Funds in accordance with this Escrow Agreement. **The Authority and NEO hereby acknowledge and agree that under no circumstances shall Escrow Agent be deemed to be or to become a trustee or a fiduciary to**

any Party or any other person whether under this Escrow Agreement, under the Underlying Agreement or by any other means in connection herewith.

3. Deposit of Escrow Funds. The Authority and NEO will transfer funds in the following manner to Escrow Agent:

(a) within three (3) business days after the execution and delivery of this Escrow Agreement, the Authority shall deposit with Escrow Agent by wire transfer of immediately available funds the amount of $22,500,000 previously received by the Authority from NEO as the DWW Funding Commitment (as defined in the Underlying Agreement) (the "Authority DWW Funds").

(b) within three (3) business days after the execution and delivery of this Escrow Agreement, the Authority shall deposit with Escrow Agent by wire transfer of immediately available funds the amount of $25,500,000, and in the timeframe and in the manner as provided for in Section 8.3, Item 4 of the Underlying Agreement, the Authority shall deposit with Escrow Agent by wire transfer of immediately available funds the amount of $30,000,000 (collectively, the "Authority Phase 1 Funds").

(c) upon receipt by Escrow Agent of the Authority DWW Funds, Escrow Agent shall segregate from the Authority DWW Funds the amount of $7,888,548 and establish a sub-escrow account to enable the Authority to pay for lease costs incurred by the Authority for the NECR Lease (the "NECR Lease Funds"), which amounts shall be disbursed as provided for in Section 4(a)(vi) below. The amount remaining in the Authority DWW Funds after the establishment of the NECR Lease Funds sub-escrow account shall be known as the "Remaining Authority DWW Funds".

(d) the Authority DWW Funds and the NECR Lease Funds may be comingled and invested as one account, provided, however, that Escrow Agent shall keep track of the Escrow Funds deposited by the Authority and by NEO and such funds shall be disbursed as provided for in Section 4 and Section 6 below.

(e) the Authority Phase 2 Funds, the NEO Phase 2 Funds and the NEO Additional Phase 2 Funds shall be transferred to Escrow Agent by the Authority and by NEO in the timeframe and in the manner as provided for in Section 8.3, as applicable, of the Underlying Agreement.

(f) in accordance with the provisions of the Underlying Agreement, additional amounts may be paid by NEO to Escrow Agent for Excess Costs and Allowed NEO Funding (as each term is defined in the Underlying Agreement). Such amounts, if any, shall be deposited with the NEO Phase 2 Funds and be disbursed by Escrow Agent as provided for in Section 4 below.

(g) the Parties agree that notwithstanding the funding as set forth in this Section 3, to the extent that the Authority and NEO are subject to the provisions of Section 2.4 of the Underlying Agreement, then, except for the Authority DWW Funds, no

additional monies shall be deposited with Escrow Agent until such time as NEO and the Authority agree on such revised deposit amounts, if any.

4. Disbursements of Escrow Funds. Subject to the terms of this Escrow Agreement, Escrow Agent shall disburse Escrow Funds at any time and from time to time, upon receipt of, and in accordance with, as applicable, an Authority Written Direction, a NEO Written Direction, or a Gateway Written Direction. The Escrow Funds shall be disbursed as follows:

(a) upon receipt of an Authority Written Direction, Escrow Agent shall disburse the requested amount(s) in the following order:

(i) from the Remaining Authority DWW Funds;

(ii) from the Authority Phase 1 Funds;

(iii) from the NEO Phase 2 Funds;

(iv) from the Authority Phase 2 Funds;

(v) from the NEO Additional Phase 2 Funds;

(vi) provided, however, that if the Authority Written Direction specifies that the payment is due under the NECR Lease, then the amount shall be disbursed from the NECR Lease Funds.

(b) upon receipt of a Gateway Written Direction, as to the payment of only Wind Down Costs as defined in the Underlying Agreement, Escrow Agent shall disburse the amount(s) requested in the following order:

(i) from the Remaining Authority DWW Funds;

(ii) from the Authority Phase 1 Funds;

(iii) from the NEO Phase 2 Funds;

(iv) from the Authority Phase 2 Funds;

(v) from the NEO Additional Phase 2 Funds.

(c) upon receipt of a NEO Written Direction as to the payment of costs related only to the Design Agreement, as defined in the Underlying Agreement, Escrow Agent shall disburse the requested amount(s) in the following order:

(vi) from the Remaining Authority DWW Funds;

(vii) from the Authority Phase 1 Funds;

(viii) from the NEO Phase 2 Funds;

(ix) from the Authority Phase 2 Funds;

(x) from the NEO Additional Phase 2 Funds.

(d) in the event that NEO has deposited with Escrow Agent funds for Excess Costs or Allowed NEO Funding as specified in Section 3(f) above, such funds shall be disbursed by Escrow Agent upon receipt of an Authority Written Direction, a NEO Written Direction, or a Gateway Written Direction, as applicable as set forth above.

(e) in the event that Escrow Agent receives from NEO a Funding Objection Notice (as defined and further described in Section 5.4(b) of the Underlying Agreement) in connection with any Authority Written Direction, Escrow Agent shall fund the amount(s) under dispute from the Authority Phase 1 Funds or the Authority Phase 2 Funds, as applicable. When such dispute has been resolved, NEO and the Authority shall submit to Escrow Agent a notice of such resolution signed by both the Authority and NEO, which notice shall direct Escrow Agent to rebalance the amounts held by Escrow Agent as provided for in such notice of resolution submitted by NEO and the Authority.

(f) in the event of a termination of the Underlying Agreement prior to the completion of the Work as provided for in the Underlying Agreement, the Escrow Funds shall be paid by Escrow Agent as further provided for in Section 16.2 of the Underlying Agreement.

(g) upon the completion of the Work as provided for in the Underlying Agreement, subject to Section 6 below, any Escrow Funds remaining shall be disbursed by Escrow Agent to the parties entitled thereto under Section 8.5.1 of the Underlying Agreement and this Escrow Agreement shall terminate.

Prior to any disbursement of Escrow Funds pursuant to a Written Direction, (i) Escrow Agent may, in its sole discretion, initiate a telephone callback procedure to authenticate such Written Direction and/or verify the identity of an authorized individual; and (ii) no Escrow Funds shall be disbursed by Escrow Agent if Escrow Agent has received from either an Authority Representative or a NEO Representative a written objection to such disbursement and the dispute is not resolved fully pursuant to Section 5 below. All disbursements of funds from the Escrow Funds shall be subject to the fees and claims of Escrow Agent and the Indemnified Parties (as defined below) pursuant to Section 10 and Section 11 below.

5. Suspension of Performance; Disbursement Into Court. If, at any time, (i) there shall exist any dispute between the Authority, NEO, or the Authority Representatives or NEO Representatives with respect to the holding or disposition of all or any portion of the Escrow Funds or any other obligations of Escrow Agent hereunder, (ii) Escrow Agent is unable to determine, to Escrow Agent's sole satisfaction, established in the exercise of its sole and absolute discretion, the proper disposition of all or any portion of the Escrow Funds or Escrow Agent's proper actions with respect to its obligations hereunder, or (iii) the Authority Representatives and NEO Representatives have not within 30 days of the furnishing by Escrow Agent of a notice of resignation pursuant to Section 7 hereof, appointed a successor Escrow Agent to act hereunder,

then Escrow Agent may, in its sole and absolute discretion, take either or both of the following actions:

(a) suspend the performance of any of its obligations (including without limitation any disbursement obligations) under this Escrow Agreement until such dispute or uncertainty shall be resolved to the sole satisfaction of Escrow Agent or until a successor Escrow Agent shall have been appointed (as the case may be); and

(b) petition (by means of an interpleader action or any other appropriate method) any court of competent jurisdiction in any venue convenient to Escrow Agent, for instructions with respect to such dispute or uncertainty, and to the extent required or permitted by law, pay into such court, for holding and disposition in accordance with the instructions of such court, all Escrow Funds, after deduction and payment to Escrow Agent of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder.

Escrow Agent shall have no liability to the Authority, NEO, their respective shareholders or members or any other person with respect to any such suspension of performance or disbursement into court, specifically including any liability or claimed liability that may arise, or be alleged to have arisen, out of or as a result of any delay in the disbursement of the Escrow Funds or any delay in or with respect to any other action required or requested of Escrow Agent.

6. Investment and Interest on Escrow Funds. Escrow Agent shall place the Authority Escrow Funds with a "qualified public depository", as such term is defined in Connecticut General Statutes Section 7-401 and Section 36a-330, in the manner as prescribed and permitted by Section 7-402 of the Connecticut General Statutes pertaining to the deposit of public funds, as amended from time to time. Authority Escrow Funds will be secured and/or collateralized in the manner and with any of the securities permitted for investment by Section 7-400 of the Connecticut General Statutes, as amended from time to time. Escrow Agent will be bound by Connecticut General Statutes Title 36A and shall follow Section 36a-333 of the Connecticut State Banking Law prescribing the collateralization of public funds, as both may be amended from time to time. Escrow Agent shall deposit the NEO Escrow Funds in an escrow account secured and/or collateralized within the manner prescribed and in any of the securities permitted by Connecticut General Statutes Section 7-400, as amended from time to time.

The Escrow Account will be established as a Negotiable Order of Withdrawal ("NOW") Account. The Escrow Account, and all sub-accounts thereof, will earn an Escrow Agent-managed deposit interest rate of one per centum (1.00%) per annum. Interest paid on the Escrow Account shall not be derived from a formula (i.e., "indexed" to a specific benchmark). The interest rate is subject to adjustment over the term of this Escrow Agreement based upon prevailing market conditions (including but not limited to any US Federal Open Market Committee "FOMC"/US Federal Reserve Bank market rate changes, i.e., as the US FOMC makes changes to the federal funds rate (for example, up/down 0.25%), Escrow Agent may increase or decrease the interest being paid on the Escrow Account in kind (for example either up/down 0.25%)). Any such changes shall be disclosed by Escrow Agent to the Authority and NEO in advance and discussed by and among the Parties. Interest earned will be credited to

the Escrow Account on a monthly basis and will be posted to the Escrow Account on the last business day of each month.

Any and all interest earned on the Escrow Funds shall be allocated by Escrow Agent to the Authority and to NEO, respectively, in accordance with and in proportion to the funding made by each of the Authority and NEO pursuant to the funding sequence set forth in Section 8.3 of the Underlying Agreement and the deposits of Escrow Funds set forth in Section 3 above. Such interest earned and proportionately allocated to each of the Authority and NEO, respectively, shall, upon and pursuant to an Authority Written Direction and a NEO Written Direction, be paid by Escrow Agent to each of the Authority and NEO upon Final Acceptance (as defined in the Underlying Agreement) within ten (10) business days after receipt by Escrow Agent of such written direction thereof. Any entity to receive any payment from the Escrow Funds from Escrow Agent shall provide Escrow Agent with an applicable W-9 or W-8 IRS tax form and/or other required information prior to any such disbursement and Escrow Agent will file any required 1099 or other required forms pursuant to Federal and applicable state laws. Each such entity represents that its Taxpayer Identification Number as on such Forms W-8 or W-9 and/or other required documentation ("TIN") is/are the correct TIN(s) assigned by the IRS, or any other taxing authority. A statement of citizenship will be provided if requested by Escrow Agent.

7. Resignation of Escrow Agent. Escrow Agent may resign and be discharged from the performance of its duties hereunder at any time by giving ten (10) days prior written notice to the other Parties specifying a date when such resignation shall take effect. Upon any such notice of resignation, the Authority and NEO Representatives jointly shall appoint a successor Escrow Agent hereunder prior to the effective date of such resignation. In the event the Authority and NEO Representatives shall not have delivered to Escrow Agent a written designation of the successor Escrow Agent within the aforementioned 10 day period, together with the consent of such designation by the successor escrow agent, Escrow Agent either (i) may interplead the Escrow Funds with any court of competent jurisdiction; or (ii) appoint a successor escrow agent of its own choice. Any costs of obtaining such appointment shall be paid jointly and severally from the Authority and NEO and from the Escrow Funds. The retiring Escrow Agent shall transmit all records pertaining to the Escrow Funds and shall pay all Escrow Funds to the successor Escrow Agent, after making copies of such records as the retiring Escrow Agent deems advisable and after deduction and payment to the retiring Escrow Agent of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by the retiring Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder. After any retiring Escrow Agent's resignation, the provisions of this Escrow Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Escrow Agent under this Escrow Agreement. The Authority and NEO hereby acknowledge and agree that any corporation or association into which Escrow Agent may enter into any form of merger, acquisition, consolidation or other comparable corporate action, or any corporation or association to which all or substantially all of the escrow business of Escrow Agent may be transferred, shall be and will be Escrow Agent under this Escrow Agreement without further act.

8. Liability of Escrow Agent. Escrow Agent undertakes to perform only such duties as are expressly set forth herein and no duties shall be implied. Escrow Agent shall have no liability under and no duty to inquire as to the provisions of any agreement other than this Escrow

Agreement. Escrow Agent shall not be liable for any action taken or omitted by it in good faith except to the extent that a court of competent jurisdiction determines that Escrow Agent's gross negligence or willful misconduct was the sole cause of any loss to the Authority or NEO. Escrow Agent's sole responsibility shall be for the safekeeping and disbursement of the Escrow Funds in accordance with the terms of this Escrow Agreement. Escrow Agent shall have no implied duties or obligations and shall not be charged with knowledge or notice of any fact or circumstance not specifically set forth herein. Escrow Agent may rely upon any notice, instruction, request or other instrument, not only as to its due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall believe to be genuine and to have been signed or presented by the person or parties purporting to sign the same. In no event shall Escrow Agent be liable for any incidental, indirect, special, consequential or punitive damages (including, but not limited to lost profits), even if Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action. Escrow Agent shall not be obligated to take any legal action or commence any proceeding in connection with the Escrow Funds, any account in which Escrow Funds are deposited, this Escrow Agreement or the Underlying Agreement, or to appear in, prosecute or defend any such legal action or proceeding. Escrow Agent may consult legal counsel selected by it in the event of any dispute or question as to the construction of any of the provisions hereof or of any other agreement or of its duties hereunder, or relating to any dispute involving any Party hereto, and shall incur no liability and shall be fully indemnified from any liability whatsoever in acting in accordance with the opinion or instruction of such counsel. The Authority and NEO, jointly and severally, shall promptly pay, upon demand, the reasonable fees and expenses of any such counsel.

Escrow Agent is authorized, in its sole discretion, to comply with orders issued or process entered by any court or regulatory requirement with respect to the Escrow Funds, without determination by Escrow Agent of such court's or regulator's jurisdiction in the matter. If any portion of the Escrow Funds is at any time attached, garnished or levied upon under any court order or other government order or action, or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court or other government authority affecting such property or any part thereof, then and in any such event, Escrow Agent is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel selected by it is binding upon it without the need for appeal or other action; and if Escrow Agent complies with any such order, writ, judgment or decree, it shall not be liable to any of the Parties hereto or to any other person or entity by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated. Furthermore, notwithstanding anything to the contrary herein, if at any time in the determination of Escrow Agent, in the exercise of its sole and absolute discretion, Escrow Agent has concluded that it may be unlawful, or, with respect to U.S. sanctions laws and regulations, it may be otherwise contrary to U.S. sanctions laws or regulations or internal policies and procedures for Escrow Agent to make a payment or take any other action hereunder, then Escrow Agent shall not thereafter be obliged to make such payment or take such action and it shall not be liable to any of the Parties hereto or to any other person or entity by reason of such inability to make such payment or take such action.

9. Indemnification of Escrow Agent. From and at all times after the date of this Escrow Agreement, the Authority and NEO, both for themselves and for on behalf of each and every party to the Underlying Agreement, shall, to the fullest extent permitted by law, jointly and severally, defend, indemnify and hold harmless Escrow Agent and each director, officer, employee, attorney, agent and affiliate of Escrow Agent (collectively, the "Indemnified Parties") against any and all actions, claims (whether or not valid), losses, damages, liabilities, costs and expenses of any kind or nature whatsoever (including without limitation reasonable attorneys' fees, costs and expenses) incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect or consequential, as a result of or arising from or in any way relating to any claim, demand, suit, action or proceeding (including any inquiry or investigation) by any person, including without limitation the Authority, or NEO or by any other party to the Underlying Agreement, whether threatened or initiated, asserting a claim for any legal or equitable remedy against any person under any statute or regulation, including, but not limited to, any federal or state securities laws, or under any common law or equitable cause or otherwise, arising from or in connection with the negotiation, preparation, execution, performance or failure of performance of this Escrow Agreement or any transactions contemplated herein, whether or not any such Indemnified Party is a party to any such action, proceeding, suit or the target of any such inquiry or investigation; *provided, however*, that no Indemnified Party shall have the right to be indemnified hereunder for any liability finally determined by a court of competent jurisdiction, subject to no further appeal, to have resulted solely from the gross negligence or willful misconduct of such Indemnified Party. Each Indemnified Party shall, in its sole discretion, have the right to select and employ separate counsel with respect to any action or claim brought or asserted against it, and the reasonable fees of such counsel shall be paid upon demand by the Authority or NEO, as applicable, jointly and severally. The obligations of the Authority and NEO under this Section 9 shall survive any termination of this Escrow Agreement and the resignation or removal of Escrow Agent.

The Parties agree that neither the payment by the Authority or NEO of any claim by Escrow Agent for indemnification hereunder nor the disbursement of any amounts to Escrow Agent from the Escrow Funds in respect of a claim by Escrow Agent for indemnification shall impair, limit, modify, or affect, the respective rights and obligations of the Authority and NEO under the Underlying Agreement.

10. Compensation to Escrow Agent.

(a) Fees and Expenses. The Authority and NEO shall reimburse Escrow Agent for all of its reasonable out-of-pocket expenses, including attorneys' fees, travel expenses, telephone and facsimile transmission costs, postage (including express mail and overnight delivery charges), copying charges and the like; provided, however, Escrow Agent shall not be entitled for any compensation or fees for its services hereunder. The additional provisions and information set forth on Schedule A are hereby incorporated by this reference, and form a part of this Escrow Agreement. All of the reimbursement obligations set forth in this Section 10 shall be payable by the Authority and NEO, jointly and severally, upon demand by Escrow Agent. The obligations of the Authority and NEO under this Section 10 shall survive any termination of this Escrow Agreement and the resignation or removal of Escrow Agent.

(b) Disbursements from Escrow Funds to Pay Escrow Agent. Escrow Agent is authorized to, and may, disburse to itself from the Escrow Funds, from time to time, the amount of any compensation and reimbursement of out-of-pocket expenses due and payable hereunder (including any amount to which Escrow Agent is entitled to seek indemnification pursuant to Section 9 hereof). Escrow Agent shall notify the Authority Representatives and NEO Representatives of any disbursement from the Escrow Funds to itself in respect of any compensation or reimbursement hereunder and shall furnish to the Authority Representatives and NEO Representatives copies of all related invoices and other statements.

(c) Security and Offset. The Authority Representatives and NEO Representatives hereby grant to Escrow Agent and the Indemnified Parties a security interest in and lien upon the Escrow Funds to secure all obligations owed to Escrow Agent hereunder, and Escrow Agent and the Indemnified Parties shall have the right to offset the amount of any compensation or reimbursement due any of them hereunder (including any claim for indemnification pursuant to Section 9 hereof) against the Escrow Funds. If for any reason the Escrow Funds available to Escrow Agent and the Indemnified Parties pursuant to such security interest or right of offset are insufficient to cover such compensation and reimbursement, the Authority and NEO shall promptly pay such amounts to Escrow Agent and the Indemnified Parties upon receipt of an itemized invoice.

11. Representations and Warranties. Each of the Authority and NEO respectively, as applicable, makes the following representations and warranties to Escrow Agent:

(i) It is duly organized, validly existing, and in good standing under the laws of the state of its incorporation or organization, and has full power and authority to execute and deliver this Escrow Agreement and to perform its obligations hereunder.

(ii) This Escrow Agreement has been duly approved by all necessary action, including any necessary shareholder or membership approval, has been executed by its duly authorized officers, and constitutes its valid and binding agreement enforceable in accordance with its terms.

(iii) The execution, delivery, and performance of this Escrow Agreement is in accordance with the Underlying Agreement and will not violate, conflict with, or cause a default under its articles of incorporation, articles of organization, bylaws, management agreement or other organizational document, as applicable, any applicable law or regulation (including, without limitation, sanctions laws and regulations), any court order or administrative ruling or decree to which it is a party or any of its property is subject, or any agreement, contract, indenture, or other binding arrangement, including without limitation the Underlying Agreement, to which it is a party or any of its property is subject.

(iv) The applicable persons designated on Schedule A hereto have been duly appointed to act as its representatives hereunder and have full power and authority to execute and deliver any Written Direction on its behalf, to amend, modify or waive any provision of this Escrow Agreement and to take any and all other actions as the Authority Representatives or NEO Representatives, as applicable, under this Escrow Agreement, all

without further consent or direction from, or notice to, it or any other party, except as set forth in this Escrow Agreement.

(v) No party other than the Parties hereto has, or shall have, any lien, claim or security interest in the Escrow Funds or any part thereof. No financing statement under the Uniform Commercial Code is on file in any jurisdiction claiming a security interest in or describing (whether specifically or generally) the Escrow Funds or any part thereof.

(vi) It is entering into this Escrow Agreement strictly for a business purpose and not for a personal, family or household purpose.

(vii) All of its representations and warranties contained herein are true and complete as of the date hereof and will be true and complete at the time of any disbursement of the Escrow Funds.

12. Identifying Information. The Authority and NEO acknowledge that a portion of the identifying information set forth on Schedule A is being requested by Escrow Agent in connection with the requirements and obligations which may arise under any and all such applicable laws, regulations and rules, including but not limited to the USA Patriot Act, Pub.L.107-56 (the "Act"), including Section 326 thereof. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a Trust, or other legal entity, we ask for documentation to verify its formation and existence as a legal entity. Escrow Agent may also ask to see other identifying information, including without limitation financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the other individuals or entities or other relevant documentation.

The Authority and NEO agree, from time to time, to provide Escrow Agent with such "know-your-customer" and similar information with respect to the Authority Representatives and NEO Representatives (including those set forth in Schedule A) and other affiliates, as may be requested by Escrow Agent and acknowledge and agree that Escrow Agent may share such information with any of its affiliates and others in the course of its business including but not limited to any advisors and or consultants.

Information about how Escrow Agent will handle personal data can be found in the Privacy Policy at the following link: https://public.websteronline.com/privacy-and-opt-out-notice.

13. Submission to Jurisdiction.

Each of the Authority, NEO and Escrow Agent hereby irrevocably consents to the nonexclusive jurisdiction and venue of any state or federal court sitting in the State of Connecticut over any action or proceeding arising out of or relating to this Agreement or otherwise arising out of or relating to the transactions contemplated hereby, and each of the Authority, NEO, and Escrow Agent hereby irrevocably agrees that all claims in respect of any such action or proceeding may be heard and determined in such state or federal court. Each of the Authority, NEO and Escrow Agent waives any objection to any action or proceeding in any

state or federal court sitting in the State of Connecticut on the basis of *forum non conveniens.* Each of the Authority, NEO and Escrow Agent hereby waives personal service of any process in connection with any such action or proceeding and agrees that the service thereof may be made by certified or registered mail directed to them at the address set forth herein. Each of the Authority, NEO and Escrow Agent agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each of the Authority, NEO, and Escrow Agent further agrees that any action or proceeding brought against Escrow Agent shall be brought only in any state or federal court sitting in the State of Connecticut. Each of the Authority and NEO further agrees that, in the exercise of its discretion, Escrow Agent may serve legal process in any other manner permitted by law and may bring any action or proceeding against any other party thereto or such party's property in the courts of any other jurisdiction.

14. Waiver of Jury Trial

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE.

15. Governing Law

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Connecticut, without regard to any choice of law rules which would require the application of the laws of any other jurisdiction.

16. Notice. All notices, approvals, consents, requests, and other communications hereunder shall be in writing and shall be deemed to have been given when the writing is delivered if given or delivered by hand, overnight delivery service to the address set forth on Schedule A hereto, or to such other address as each Party may designate for itself by like notice, and shall be deemed to have been given on the date deposited in the mail, if mailed, by first-class, registered or certified mail, postage prepaid, addressed as set forth on Schedule A hereto, or to such other address as each Party may designate for itself by like notice.

17. Amendment or Waiver. This Escrow Agreement may be changed, waived, discharged or terminated only by a writing signed by the Authority Representatives and NEO Representatives and Escrow Agent; provided that any change affecting Gateway shall only be effective upon Escrow Agent's receipt of a writing signed by Gateway. No delay or omission by any Party in exercising any right with respect hereto shall operate as a waiver. A waiver on any one occasion shall not be construed as a bar to, or waiver of, any right or remedy on any future occasion.

18. Severability. To the extent any provision of this Escrow Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Escrow Agreement.

19. Entire Agreement. This Escrow Agreement constitutes the entire agreement between the Parties relating to the holding and disbursement of the Escrow Funds and sets forth in their entirety the obligations and duties of Escrow Agent with respect to the Escrow Funds. All of the terms of this Escrow Agreement, as amended from time to time, shall be binding upon, inure to the benefit of and be enforceable by the respective successors and assigns of the Authority, NEO and Escrow Agent. Neither this Agreement nor any right or interest hereunder may be assigned in whole or in part by any Party hereto without the prior written consent of the Parties hereto; provided, that Escrow Agent may freely assigns its rights and obligations hereunder to its affiliates.

20. Execution in Counterparts. This Escrow Agreement and any Written Direction may be executed in two or more counterparts, which when so executed shall constitute one and the same agreement or direction.

21. Termination. Upon the first to occur of the termination of the Escrow Period, the disbursement of all amounts in the Escrow Funds pursuant to Written Directions or the disbursement of all amounts in the Escrow Funds into court pursuant to Section 5 or Section 8 hereof, or the disbursement of all amounts to a successor escrow agent pursuant to Section 7 hereof, this Escrow Agreement shall terminate and Escrow Agent shall have no further obligation or liability whatsoever with respect to this Escrow Agreement or the Escrow Funds.

22. Dealings. Escrow Agent and any stockholder, director, officer or employee of Escrow Agent or any of its affiliates may buy, sell, and deal in any of the securities of the Authority or NEO and become pecuniarily interested in any transaction in which the Authority or NEO may be interested, and contract and lend money to the Authority or NEO and otherwise act as fully and freely as though it were not Escrow Agent under this Agreement. Nothing herein shall preclude Escrow Agent from acting in any other capacity for the Authority or NEO or for any other entity.

IN WITNESS WHEREOF, the Parties hereto have caused this Escrow Agreement to be executed under seal as of the date first above written.

CONNECTICUT PORT AUTHORITY

By: _____
Name: _____
Title: _____

NORTH EAST OFFSHORE LLC

By: _____
Name: _____
Title: _____

WEBSTER BANK, N.A.,
as ESCROW AGENT

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Confidential

SCHEDULE A

1. Escrow Agent Costs/Expenses. [TO BE DETERMINED]

Out-of-Pocket Expenses:	$_____
[Transactional Costs]:	$_____
[Other Fees/Attorney, etc.]:	$_____
TOTAL	$_____

In the event the escrow is not funded, all expenses, including attorneys' fees, remain due and payable, and if paid, will not be refunded.

The costs and expenses quoted in this schedule apply to services ordinarily rendered in the administration of an Escrow Account and are subject to reasonable adjustment based on final review of documents, or when Escrow Agent is called upon to undertake unusual duties or responsibilities, or as changes in law, procedures, or the cost of doing business demand. Services in addition to and not contemplated in this Agreement, including, but not limited to, document amendments and revisions, calculations, notices and reports, and legal fees, will be billed as extraordinary expenses.

Unless otherwise indicated, the above costs and expenses relate to the establishment of one escrow account. Additional sub-accounts governed by the same Escrow Agreement may incur an additional charge. Transaction costs include charges for wire transfers, checks and internal transfers.

2. Representatives.

The following persons are hereby designated and appointed as an Authority Representative under the Escrow Agreement:

_____	_____
Name	Specimen signature
_____	_____
Name	Specimen signature
_____	_____
Name	Specimen signature

The following persons are hereby designated and appointed as a NEO Representative under the Escrow Agreement:

_____	_____
Name	Specimen signature
_____	_____
Name	Specimen signature
_____	_____
Name	Specimen signature

Confidential

The following person is hereby designated and appointed as a Gateway Representative for the purpose of a Gateway Written Direction under the Escrow Agreement:

_____	_____
Name	Specimen signature
_____	_____
Name	Specimen signature
_____	_____
Name	Specimen signature

3. Notice Addresses.

		Principal Place of Business if different
If to the Authority at:	_____	_____
	_____	_____
	_____	_____
	ATTN: _____	_____
	Facsimile: _____	
	Telephone: _____	
	E-mail: _____	
If to NEO at:		
	_____	_____
	_____	_____
	_____	_____
	ATTN: _____	_____
	Facsimile: _____	
	Telephone: _____	
	E-mail: _____	
If to Escrow Agent at:	Webster Bank, N.A.	
	[_____]	
	[_____]	
	[_____]	
	ATTENTION: [ ]	
	Facsimile: [ ]	
with a copy to:	[_____]	
	[_____]	
	[_____]	
	[_____]	
	ATTENTION: [ ]	
	Facsimile: [ ]	

If to Gateway at:

_____ _____
_____ _____
_____ _____
ATTN: _____ _____
Facsimile: _____
Telephone: _____
E-mail: _____

Confidential

SCHEDULE B

Form of Authority Written Direction

AUTHORITY WRITTEN DIRECTION

[Date]

Webster Bank, N.A.
[_____]
[_____]
Attn: [ ]

Re: Escrow Agreement dated [ ], 20[ ], by and among The Connecticut Port Authority ("Authority"), North East Offshore LLC ("NEO"), and Webster Bank, N.A. (as "Escrow Agent")

Ladies and Gentlemen:

This Authority Written Direction is provided pursuant to Section 4 of the Escrow Agreement. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Escrow Agreement.

Please disburse to _____ the sum of _____ as provided for in the Disbursement Request attached hereto as Exhibit A from the [specify name of funds].

The Authority hereby certifies to Escrow Agent that this Authority Written Direction satisfies the terms and conditions of the Underlying Agreement.

Very truly yours,

[ ]

By: _____
Name:
Title:

By: _____
Name:
Title:

[ ]

By: _____
Name:
Title:

By: _____
Name:
Title:

Confidential

Exhibit A to Schedule B

Disbursement Requisition

SCHEDULE C

Form of Gateway Written Direction

GATEWAY WRITTEN DIRECTION

[Date]

Webster Bank, N.A.
[_____]
[_____]
Attn: [ ]

Re: Escrow Agreement dated [ ], 20[ ], by and among The Connecticut Port Authority ("Authority"), North East Offshore LLC ("NEO"), and Webster Bank, N.A. (as "Escrow Agent")

Ladies and Gentlemen:

This Authority Written Direction is provided pursuant to Section 4 of the Escrow Agreement. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Escrow Agreement.

Please disburse to _____ the sum of _____ as provided for in the Disbursement Request attached hereto as Exhibit A.

Gateway hereby certifies that this Gateway Written Direction satisfies the provisions of Section 9.2.6 of the Underlying Agreement.

Very truly yours,

[ ]

By: _____
Name:
Title:

By: _____
Name:
Title:

[ ]

By: _____
Name:
Title:

By: _____
Name:
Title:

Confidential

Exhibit A to Schedule C

Account Number:
Account Name:
Bank Name:
Bank ABA Number:

Account Number:
Account Name:
Bank Name:
Bank ABA Number:

Confidential

SCHEDULE D

Form of NEO Written Direction

NEO WRITTEN DIRECTION

[Date]

Webster Bank, N.A.
[_____]
[_____]
Attn: [ ]

Re: Escrow Agreement dated [ ], 20[ ], by and among The Connecticut Port Authority ("Authority"), North East Offshore LLC ("NEO"), and Webster Bank, N.A. (as "Escrow Agent")

Ladies and Gentlemen:

This Authority Written Direction is provided pursuant to Section 4 of the Escrow Agreement. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Escrow Agreement.

Please disburse to _____ the sum of _____ as provided for in the Disbursement Request attached hereto as Exhibit A.

NEO hereby certifies that this NEO Written Direction satisfies the provisions of the Underlying Agreement.

Very truly yours,

[ ]

By: _____
Name:
Title:

By: _____
Name:
Title:

[ ]

By: _____
Name:
Title:

By: _____
Name:
Title:

Confidential

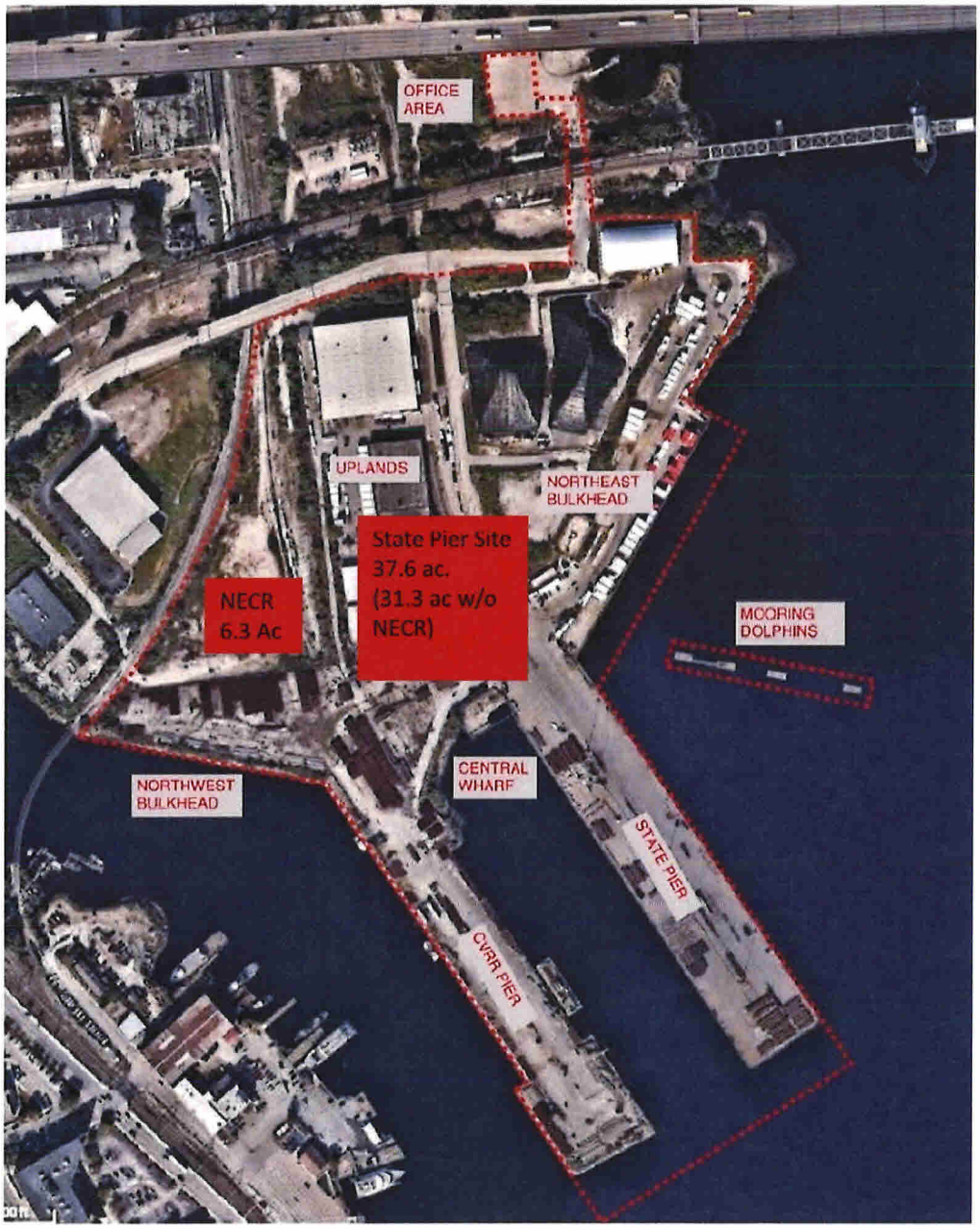
Exhibit A to Schedule D

Account Number:
Account Name:
Bank Name:
Bank ABA Number:

Account Number:
Account Name:
Bank Name:
Bank ABA Number:

Confidential

HDA Schedule 1



SCHEDULE 2 TO HARBOR DEVELOPMENT AGREEMENT
PROJECT CONDITIONS AND MILESTONE PERFORMANCE DATES (PCMPD)

Item Number	Item Name	Item Description	Deadline	Extend for Force Majeure?
1	M&N Contract Amendment	Execution and Delivery of amendment of M&N contract for State control.	Within 30 days after execution of HDA	No
2	Confirmation of CPA good title	NEO confirmation of good title transfer from CT DOT to CPA	Within 30 days after execution of HDA	No
3	Abutter Parcels	Resolution of abutter parcel issues, including NECR lease.	Within 30 days after execution of HDA	No
4	Additional bonding authority	CPA receives legislative authority and bonding commission action to bond $60 million in addition to $25.5 million of bonded funds already available; CPA confirms $30 million of such $60 million has been specifically allocated to the Project.	2/28/2020	No
5	408 De-Authorization	Confirmation that CWA Section 408 de-authorization is complete	5/15/2020	No
6	Stormwater Permit Issuance	Approval by CT DEEP of the Construction General Stormwater Permit	6/8/2020	No
7	Updated Cost Estimate	60% design and estimates will be delivered by M&N by 7/29/20. 3rd Party review and reconciliation will be completed per this milestone. The updated cost estimate finalized as part of this effort will be used to determine the adequacy of the bonding authority being sought by the Authority per Items 4 and 9 of this Schedule.	8/19/2020	No
8	Phase 2 Permits Issued	Phase 2 approvals issued by CT DEEP and USACE	11/12/2020	No
9	Funding	CPA confirms additional funding in hand to achieve total funding requirement, consistent with outcome of Item 7 of this Schedule (60% cost estimate)	12/15/20	
10	*"EPC Bids are too high"* process (Sec 5.2)	Authority or the CMR will issue bids in November 2020 which will be due no later than December 29, 2020. These bids will be used to update the cost estimate and determine the adequacy of the Authority's bonding authorization.	12/29/20	No
11	Escrowing of Phase 2 Funding	Phase 2 funding due to escrow agent by both Parties (30 days prior to anticipated NTP to Contractor); Assumes funds consistent with 60% Estimate completed in Item 7 of this Schedule.	1/5/21	

SCHEDULE 2 TO HARBOR DEVELOPMENT AGREEMENT
PROJECT CONDITIONS AND MILESTONE PERFORMANCE DATES (PCMPD)

Item Number	Item Name	Item Description	Deadline	Extend for Force Majeure?
12	Construction Contract Executed by CPA	CPA's construction contract or guaranteed maximum price amendment executed; expected to be contingent on receipt of permits; CPA delivers funding for any Excess Funds to escrow agent.	2/2/2021	No
13	Construction Commencement	CPA issues Notice to Proceed (NTP) to Contractor to commence construction.	2/5/2021	Yes
14	Phase 1 Substantial Completion	Achievement of Substation Completion of Phase 1 construction activities. NEO may enter site at this time.	12/23/2021	Yes
15	CPA construction funding shortfall	CPA Failure to pay Excess Costs arising after issuance of all permits/all Phase II share funded (e.g. VO for unexpected site condition discovered during construction) after cure period	varies	Yes, for CPA time to cure, but not for CPA funding obligation
16	"On Time" Bonus Delivery date	Turnkey handoff date on which NEO enters Site to make use of facility as WTG construction hub (i.e., not for alternative use)	8/12/2022	No
17	Regular Delivery Date	Turnkey handoff date on which BSW enters Site to make use of facility as WTG construction hub (i.e., not for alternative use	8/31/2022	Yes

SCHEDULE 2.4

MINIMAL SCOPE

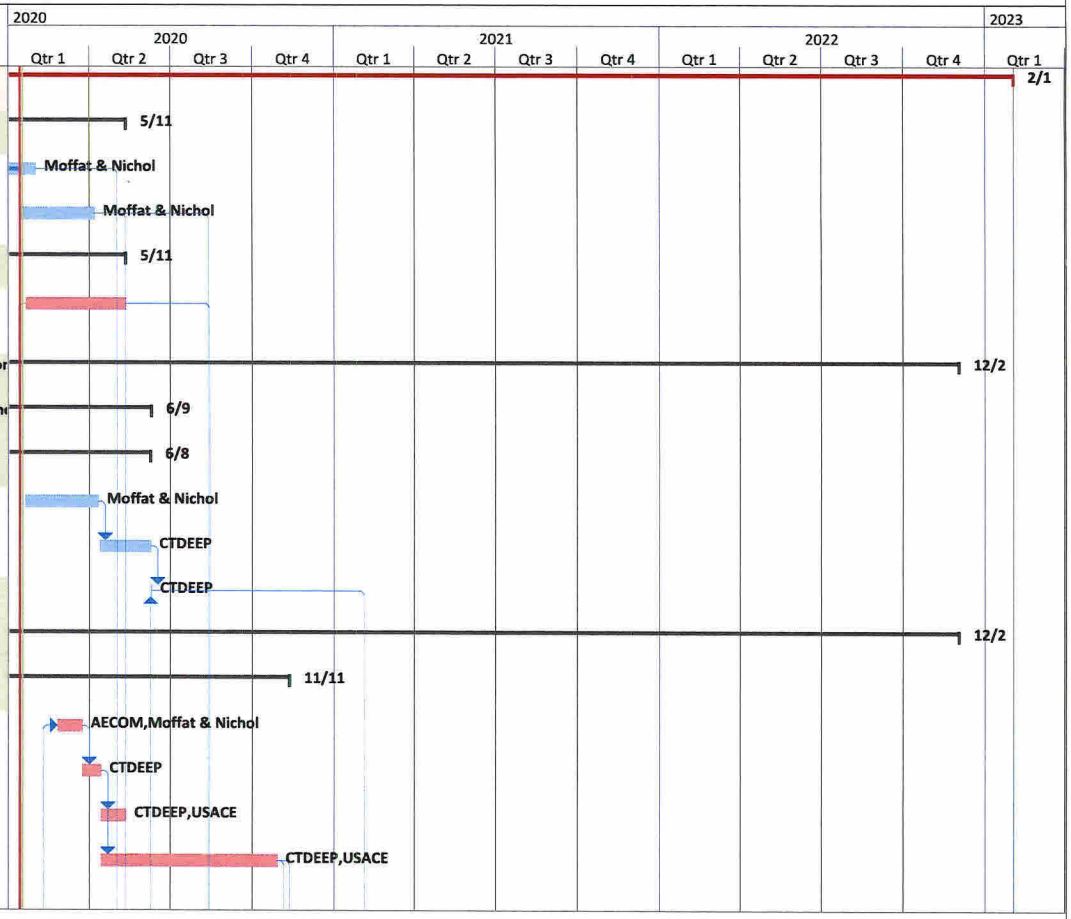
- Scope: Staging of WTGs and/or related equipment
- Use of Site:
    - NEO would have exclusive use of site to the extent such exclusive use is needed, with the exception of the CVRR pier;
    - If exclusive use is not needed NEO will coordinate with CPA and Gateway to identify portion(s) of the site that can be marketed to other customers;
- Timing:
    - NEO would make a 2-year commitment to use the site for its first project construction campaign;
    - NEO would enter into a sublease agreement with Gateway and would pay a nominal rent to be negotiated prior to that time;
    - Rent paid by NEO would be credited against the original $22.5 million DWW Funding Commitment;
- Funding Commitment:
    - NEO funding is limited to the $22.5M DWW Funding Commitment (or remaining balance of that funding)
    - As noted above, any rent paid by NEO will be funded out of this $22.5 million funding;
    - Remaining funding, to the extent available, would be committed to completing Phase 1 construction activities (i.e., demolishing existing buildings onsite - except for northern warehouse structure, regrading of upland site, and stormwater management upgrades);
    - No Phase 2 Project work would be required;
- State Pier:
    - No upgrades to the State Pier structure would be proposed;
    - However, NEO would, to the extent available and feasible, use the existing State Pier berthing area for deliveries and load-out;
- No NECR lands/lease required

SPNL PDWS 1-16-20

Gantt Chart - Incomplete Tasks

Status Date: Mon 1/13/20

ID #	Task Name	Start	Finish	Duration	Resource Names
0	**SPNL PDWS 1-16-20**	**Mon 5/6/19**	**Wed 2/1/23**	**966d**	
1	**1 Site Investigations**	**Mon 6/24/19**	**Mon 5/11/20**	**225d**	
3	1.2 Building Hazardous Material Studies and Report	Mon 7/29/19	Fri 1/31/20	6.5mo	Moffat & Nichol
6	1.5 Site Contaminated Soils Analysis	Tue 1/14/20	Mon 4/6/20	3mo	Moffat & Nichol
7	**1.6 Geotechnical Borings & Tests**	**Mon 7/8/19**	**Mon 5/11/20**	**221d**	**Moffat & Nichol**
11	1.6.4 State Pier geotech and reports	Tue 1/21/20	Mon 5/11/20	4mo	
12	**2 Permitting**	**Mon 5/6/19**	**Fri 12/2/22**	**935d**	**AECOM,CT Port Author**
13	**2.1 Phase 1 Permits**	**Mon 7/1/19**	**Tue 6/9/20**	**240d**	**AECOM,Moffat & Nich**
18	**2.1.2 Construction General Storm Water Permit (**	**Wed 9/18/19**	**Mon 6/8/20**	**184d**	
21	2.1.2.3 CGSWP Update	Mon 1/20/20	Fri 4/10/20	3mo	Moffat & Nichol
22	2.1.2.4 CGSWP -60 day CTDEEP Review/Public (	Mon 4/13/20	Mon 6/8/20	2mo	CTDEEP
23	**2.1.3 Phase 1 permits issued**	**Tue 6/9/20**	**Tue 6/9/20**	**1d**	**CTDEEP**
24	**2.2 Phase 2 Permits**	**Mon 5/6/19**	**Fri 12/2/22**	**923d**	
25	**2.2.1 Joint Permit Application (JPA) CTDEEP and USACE**	**Tue 5/7/19**	**Wed 11/11/20**	**388d**	**CT Port Authority**
27	2.2.1.2 State Pier Permitting update	Tue 2/25/20	Mon 3/23/20	4w	AECOM,Moffat & Nichol
28	2.2.1.3 JPA Submittal Review (includes NOI)	Tue 3/24/20	Mon 4/13/20	15d	CTDEEP
29	2.2.1.4 JPA Public Notice Period -30 days	Tue 4/14/20	Mon 5/11/20	4w	CTDEEP,USACE
30	2.2.1.5 JPA Review and Evaluation -DEEP and USACE	Tue 4/14/20	Wed 10/28/20	7mo	CTDEEP,USACE

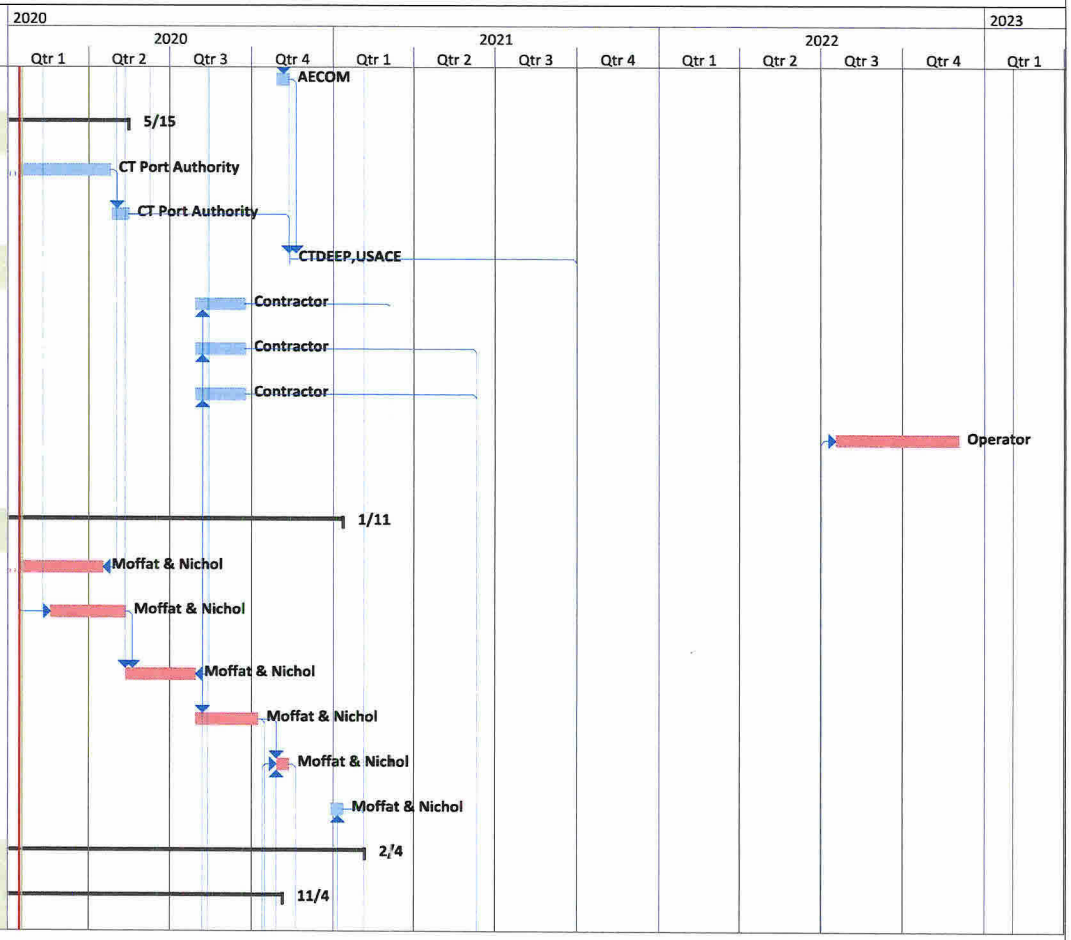


SPNL PDWS 1-16-20

Gantt Chart - Incomplete Tasks

Status Date: Mon 1/13/20

ID #	Task Name	Start	Finish	Duration	Resource Names
31	2.2.1.6 Reconcile Permitting Agency Comments	Thu 10/29/20	Wed 11/11/20	2w	AECOM
32	**2.2.2 Deauthorization Article 404**	**Mon 5/6/19**	**Fri 5/15/20**	**263d**	**CT Port Authority**
34	2.2.2.2 Legislative Process	Mon 7/15/19	Fri 4/24/20	10mo	CT Port Authority
35	2.2.2.3 Deauthorization Received	Mon 4/27/20	Fri 5/15/20	15d	CT Port Authority
36	**2.2.3 Phase 2 Permits Issued**	**Thu 11/12/20**	**Thu 11/12/20**	1d	CTDEEP,USACE
38	2.2.5 Local Building Permits	Thu 7/30/20	Wed 9/23/20	2mo	Contractor
39	2.2.6 Water and Sewer Interconnection Permits	Thu 7/30/20	Wed 9/23/20	2mo	Contractor
40	2.2.7 Electrical Interconnection Permits	Thu 7/30/20	Wed 9/23/20	2mo	Contractor
41	2.2.8 FAA Notification Facility operations	Mon 7/18/22	Fri 12/2/22	5mo	Operator
42	**3 Facility Design**	**Fri 8/2/19**	**Mon 1/11/21**	**367d**	**Moffat & Nichol**
43	3.1 Detail Design Original Scope Items	Fri 8/2/19	Thu 4/16/20	180d	Moffat & Nichol
45	3.3 Concept to 30% Design State Pier East Berth	Tue 2/18/20	Mon 5/11/20	3mo	Moffat & Nichol
46	3.4 State Pier upgrade project 60% design	Tue 5/12/20	Wed 7/29/20	11w	Moffat & Nichol
47	3.5 Facility 90% design	Thu 7/30/20	Wed 10/7/20	2.5mo	Moffat & Nichol
48	3.6 IFB Drawings	Thu 10/29/20	Wed 11/11/20	10d	Moffat & Nichol
49	3.7 IFC Drawings	Tue 12/29/20	Mon 1/11/21	10d	Moffat & Nichol
50	**4 Contracting**	**Thu 9/26/19**	**Thu 2/4/21**	**347d**	**CT Port Authority**
51	**4.1 Independent Review**	**Mon 12/9/19**	**Wed 11/4/20**	**234d**	



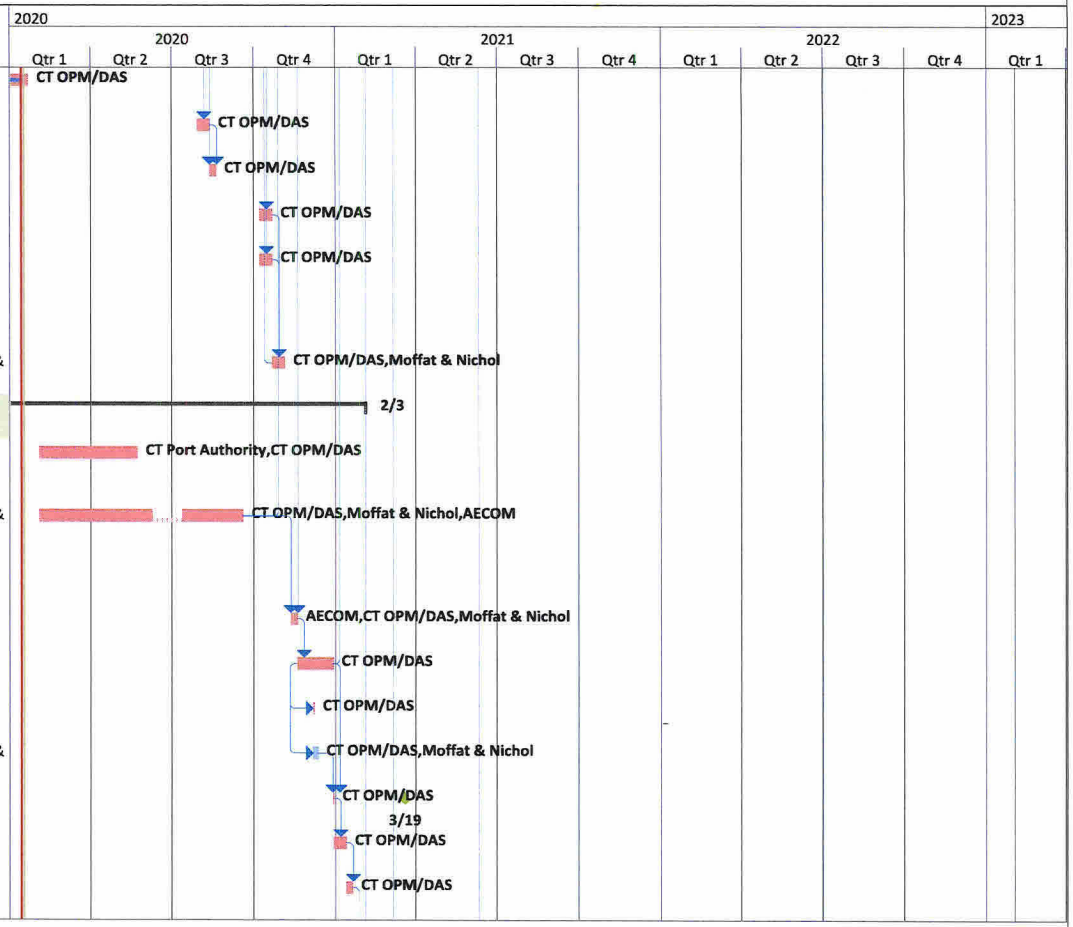
Current Date: Fri 1/17/20
SPNL PDWS 1-16-20

SPNL PDWS 1-16-20

Gantt Chart - Incomplete Tasks

Status Date: Mon 1/13/20

ID #	Task Name	Start	Finish	Duration	Resource Names
52	4.1.1 Cost Estimate Reconciliation and review of initial design.	Mon 12/9/19	Tue 1/21/20	6w	CT OPM/DAS
53	4.1.2 3rd Party Review of 60% Documents	Thu 7/30/20	Wed 8/12/20	10d	CT OPM/DAS
54	4.1.3 Reconcile estimate and 60% document review Comments	Thu 8/13/20	Wed 8/19/20	5d	CT OPM/DAS
55	4.1.4 3rd Party Review of 90% documents	Thu 10/8/20	Wed 10/21/20	2w	CT OPM/DAS
56	4.1.5 90% Cost Estimate	Thu 10/8/20	Wed 10/21/20	10d	CT OPM/DAS
57	4.1.6 Reconcile 90% Review Comments	Thu 10/22/20	Wed 11/4/20	2w	CT OPM/DAS,Moffat & Nichol
58	**4.2 Project Bid Package**	**Thu 9/26/19**	**Wed 2/3/21**	**355d**	**CT Port Authority**
60	4.2.2 Contractor Prequalification Process Including RFI and Statement of Qualifications - Bid Package	Mon 2/3/20	Fri 5/22/20	4mo	CT Port Authority,CT OPM/DAS
61	4.2.3 Construction Bid Package Development	Mon 2/3/20	Fri 9/18/20	7mo	CT OPM/DAS,Moffat & Nichol,AECOM
62	4.2.4 Assemble Final Bid Documents	Thu 11/12/20	Wed 11/18/20	5d	AECOM,CT OPM/DAS,Moffat &
63	4.2.5 Construction Bid Period	Thu 11/19/20	Mon 12/28/20	5w	CT OPM/DAS
64	4.2.6 Pre Bid Conference	Mon 12/7/20	Mon 12/7/20	1d	CT OPM/DAS
65	4.2.7 RFI response and Bid Addenda Issue	Mon 12/7/20	Fri 12/11/20	5d	CT OPM/DAS,Moffat & Nichol
66	4.2.8 Bid Opening	Tue 12/29/20	Tue 12/29/20	1d	CT OPM/DAS
67	4.2.9 Contractor Conditional Selection and Scope F	Wed 12/30/20	Tue 1/12/21	10d	CT OPM/DAS
68	4.2.10 Contract Finalization	Wed 1/13/21	Tue 1/19/21	5d	CT OPM/DAS

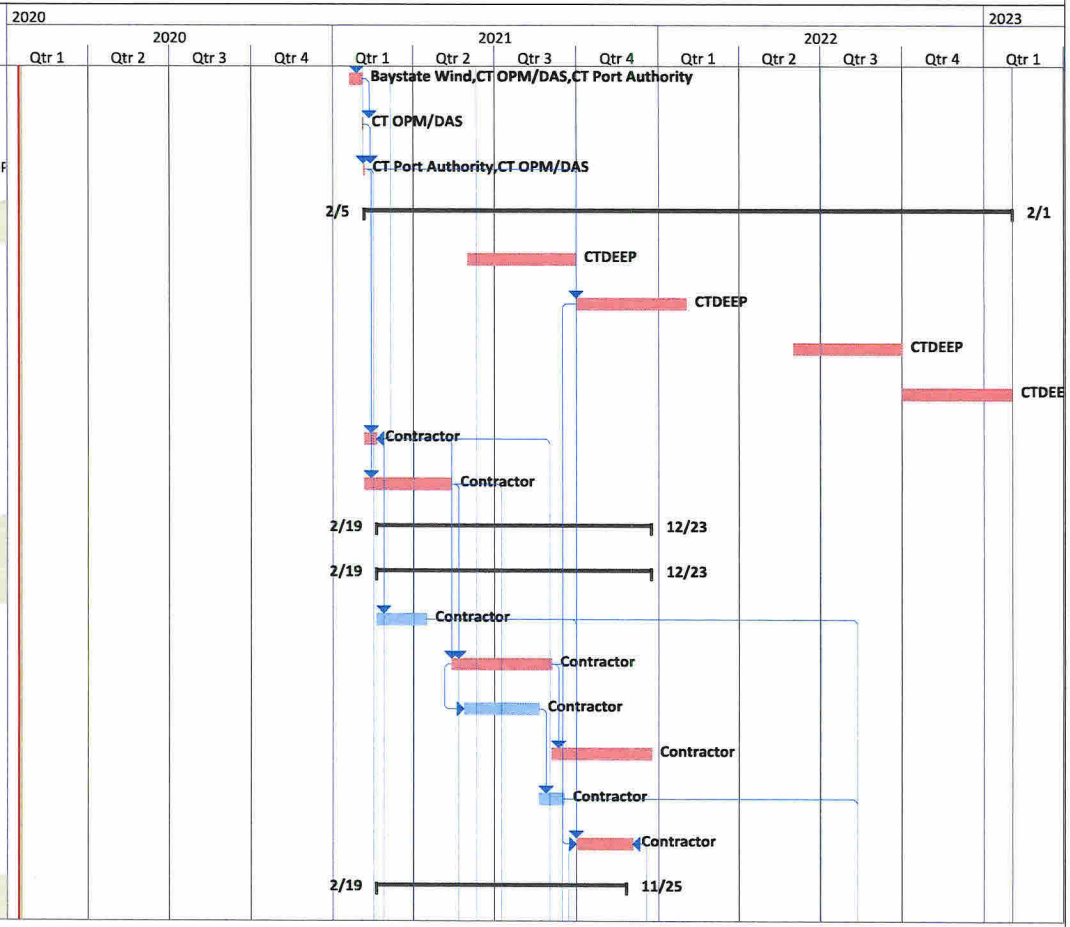


SPNL PDWS 1-16-20

Gantt Chart - Incomplete Tasks

Status Date: Mon 1/13/20

ID #	Task Name	Start	Finish	Duration	Resource Names
69	4.2.11 Contract Approval	Wed 1/20/21	Tue 2/2/21	10d	Baystate Wind,CT OPM/DAS,CT Port
70	4.2.12 Pre Start Conference	Wed 2/3/21	Wed 2/3/21	1d	CT OPM/DAS
71	4.3 NTP for Contractor	Thu 2/4/21	Thu 2/4/21	1d	CT Port Authority,CT OF
72	**5 Construction**	**Fri 2/5/21**	**Wed 2/1/23**	**519d**	
73	5.1 No In Water Work 2021	Tue 6/1/21	Thu 9/30/21	121ed	CTDEEP
74	5.2 Dredge window 2021	Fri 10/1/21	Tue 2/1/22	123ed	CTDEEP
75	5.3 No In Water Work 2022	Wed 6/1/22	Fri 9/30/22	88d	CTDEEP
76	5.4 Dredge Window 2022	Sat 10/1/22	Wed 2/1/23	89d	CTDEEP
77	5.5 Mobilization	Fri 2/5/21	Thu 2/18/21	10d	Contractor
78	5.6 Long Lead Item Procurement	Fri 2/5/21	Thu 5/13/21	14w	Contractor
79	**5.7 Upland and NE Bulkhead - Phase 1**	**Fri 2/19/21**	**Thu 12/23/21**	**220d**	
80	**5.7.1 NE bulkhead demolition & reconstruction**	**Fri 2/19/21**	**Thu 12/23/21**	**220d**	
81	5.7.1.1 Demolition of Dolphins	Fri 2/19/21	Thu 4/15/21	2mo	Contractor
82	5.7.1.2 Install NE Sheet pile bulkhead	Fri 5/14/21	Thu 9/2/21	4mo	Contractor
83	5.7.1.3 Encapsulate NE bulkhead	Fri 5/28/21	Thu 8/19/21	3mo	Contractor
84	5.7.1.4 Relieving Platform and Heavy Lift Pad	Fri 9/3/21	Thu 12/23/21	4mo	Contractor
85	5.7.1.5 Install marine furniture NE Bulkhead	Fri 8/20/21	Thu 9/16/21	1mo	Contractor
86	5.7.2 Dredge NE bulkhead and jack up pockets 136,000 CY	Fri 10/1/21	Thu 12/2/21	9w	Contractor
87	**5.7.3 Uplands**	**Fri 2/19/21**	**Thu 11/25/21**	**200d**	

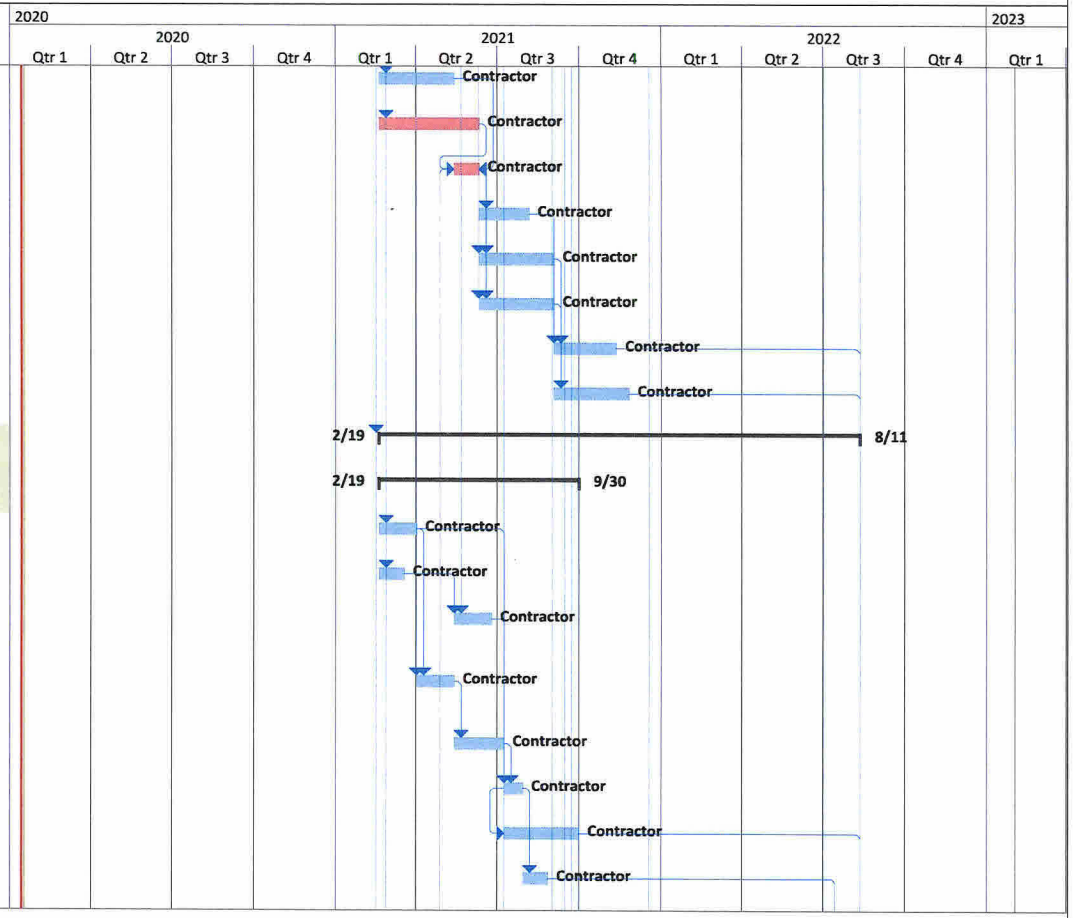


SPNL PDWS 1-16-20

Gantt Chart - Incomplete Tasks

Status Date: Mon 1/13/20

ID #	Task Name	Start	Finish	Duration	Resource Names
88	5.7.3.1 Demolish buildings -	Fri 2/19/21	Thu 5/13/21	3mo	Contractor
89	5.7.3.2 Site demolition (in ground demo)	Fri 2/19/21	Thu 6/10/21	4mo	Contractor
90	5.7.3.3 Rough Grade site	Fri 5/14/21	Thu 6/10/21	1mo	Contractor
91	5.7.3.4 Storm Water Collection treatment and drainage system	Fri 6/11/21	Thu 8/5/21	2mo	Contractor
92	5.7.3.5 Utility and Security Install	Fri 6/11/21	Thu 9/2/21	3mo	Contractor
93	5.7.3.6 Electrical distribution & area lights	Fri 6/11/21	Thu 9/2/21	3mo	Contractor
94	5.7.3.7 Place & grade surface treatment Uplands	Fri 9/3/21	Thu 11/11/21	2.5mo	Contractor
95	5.7.3.8 Shore Power	Fri 9/3/21	Thu 11/25/21	3mo	Contractor
96	**5.8 State Pier/CVRR Pier/Central Wharf - Phase 2**	**Fri 2/19/21**	**Thu 8/11/22**	**385d**	
97	**5.8.1 CVRR Pier**	**Fri 2/19/21**	**Thu 9/30/21**	**160d**	
98	5.8.1.1 CVRR Pier Test Pits and analysis	Fri 2/19/21	Thu 4/1/21	30d	Contractor
99	5.8.1.2 Demo CVRR pier east corner	Fri 2/19/21	Thu 3/18/21	4w	Contractor
100	5.8.1.3 CVRR Pier Corner Sheeting	Fri 5/14/21	Thu 6/24/21	6w	Contractor
101	5.8.1.4 CVRR Sheet Pile Reinforcing Bulkhead	Fri 4/2/21	Thu 5/13/21	6w	Contractor
102	5.8.1.5 CVRR Soil Improvements	Fri 5/14/21	Thu 7/8/21	8w	Contractor
103	5.8.1.6 CVRR raise deck elevation	Fri 7/9/21	Thu 7/29/21	3w	Contractor
104	5.8.1.7 CVRR Utilities and Storm Water System	Fri 7/9/21	Thu 9/30/21	3mo	Contractor
105	5.8.1.8 CVRR Place & compact fill	Fri 7/30/21	Thu 8/26/21	4w	Contractor

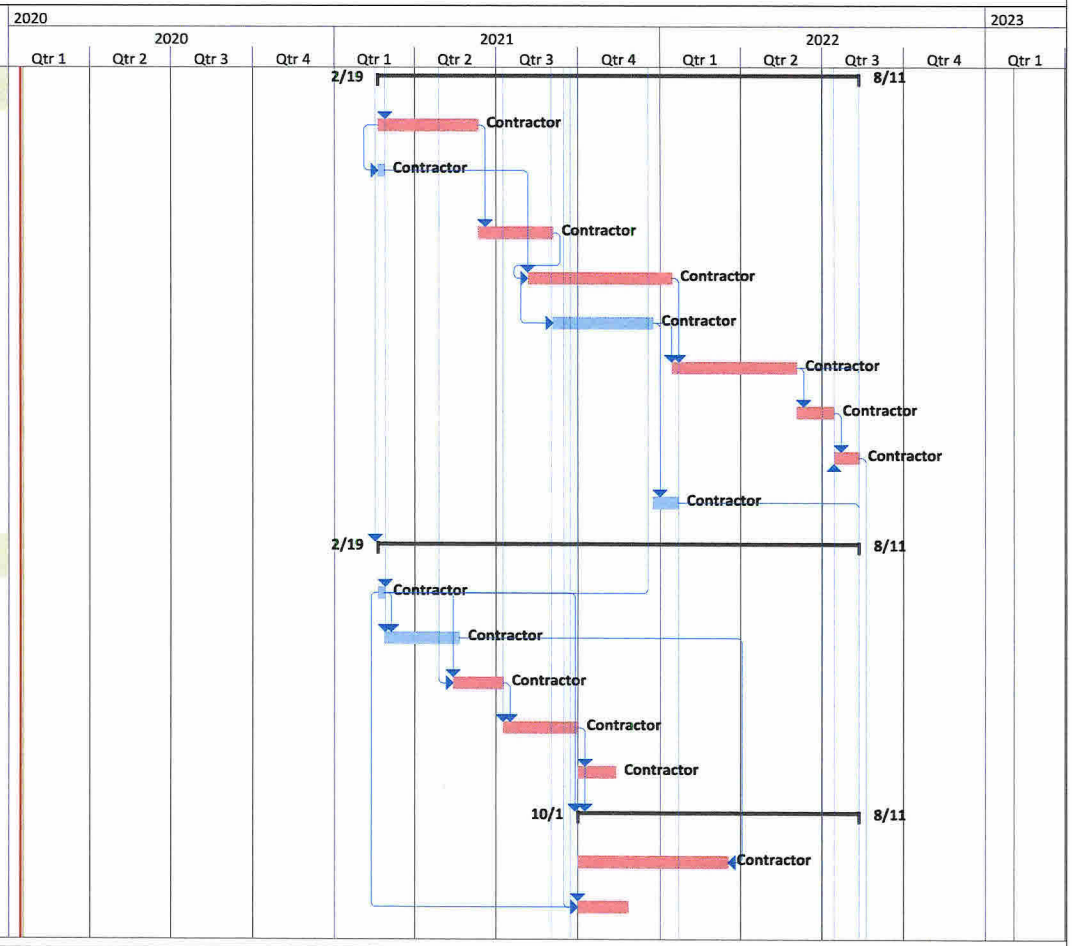


SPNL PDWS 1-16-20

Gantt Chart - Incomplete Tasks

Status Date: Mon 1/13/20

ID #	Task Name	Start	Finish	Duration	Resource Names
106	**5.8.2 Reinforcement of State Pier**	**Fri 2/19/21**	**Thu 8/11/22**	**385d**	
107	5.8.2.1 Remove State Pier Deck and Piling	Fri 2/19/21	Thu 6/10/21	4mo	Contractor
108	5.8.2.2 Install State Pier Turbidity Curtain	Fri 2/19/21	Thu 2/25/21	1w	Contractor
109	5.8.2.3 Install State pier tie back system	Fri 6/11/21	Thu 9/2/21	3mo	Contractor
110	5.8.2.4 Remove rip rap and install sheetpile	Fri 8/6/21	Thu 1/13/22	23w	Contractor
111	5.8.2.5 Encapsulate State Pier bulkhead	Fri 9/3/21	Thu 12/23/21	4mo	Contractor
112	5.8.2.6 Install Heavy Lift Platform	Fri 1/14/22	Thu 6/2/22	5mo	Contractor
113	5.8.2.7 Install state pier utilities	Fri 6/3/22	Thu 7/14/22	1.5mo	Contractor
114	5.8.2.8 Place and grade surface treatment	Fri 7/15/22	Thu 8/11/22	1mo	Contractor
115	5.8.2.9 Install State Pier Marine Furniture	Fri 12/24/21	Thu 1/20/22	1mo	Contractor
116	**5.8.3 Central Wharf**	**Fri 2/19/21**	**Thu 8/11/22**	**385d**	
117	5.8.3.1 Install Turbidity Curtain CVRR to State Pier	Fri 2/19/21	Thu 2/25/21	5d	Contractor
118	5.8.3.2 State Pier demo west apron	Fri 2/26/21	Thu 5/20/21	60d	Contractor
119	5.8.3.3 Central Wharf anchor wall berm	Fri 5/14/21	Thu 7/8/21	2mo	Contractor
120	5.8.3.4 Install Kingpile wall	Fri 7/9/21	Thu 9/30/21	3mo	Contractor
121	5.8.3.5 Encapsulate bulkhead	Fri 10/1/21	Thu 11/11/21	6w	Contractor
122	5.8.3.6 Fill Central Wharf Area	Fri 10/1/21	Thu 8/11/22	**225d**	**Contractor**
123	5.8.3.6.1 Place Stockpiled /Imported Fill	Fri 10/1/21	Thu 3/17/22	6mo	Contractor
124	5.8.3.6.2 Dredge State Pier Manuvering Basin	Fri 10/1/21	Thu 11/25/21	2mo	

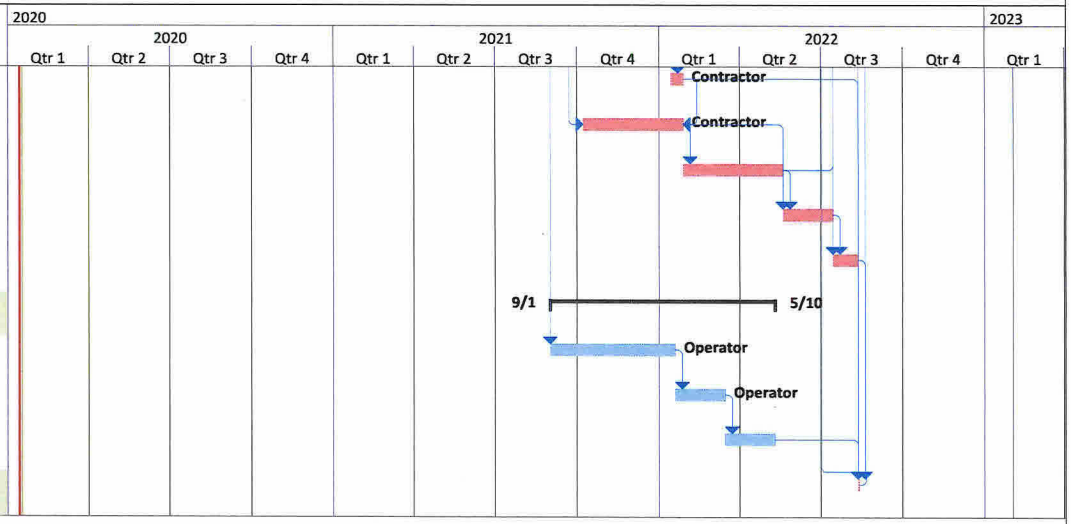


SPNL PDWS 1-16-20

Gantt Chart - Incomplete Tasks

Status Date: Mon 1/13/20

ID #	Task Name	Start	Finish	Duration	Resource Names
125	5.8.3.6.3 Dredge East Berth Jack up pockets	Fri 1/14/22	Thu 1/27/22	2w	Contractor
126	5.8.3.6.4 Place Dredge Material in Central Wharf	Fri 10/8/21	Thu 1/27/22	4mo	Contractor
127	5.8.3.6.5 Install Stone Columns	Fri 1/28/22	Thu 5/19/22	4mo	
128	5.8.3.6.6 Complete fill of Central wharf	Fri 5/20/22	Thu 7/14/22	2mo	
129	5.8.3.6.7 Place and grade surface treatment	Fri 7/15/22	Thu 8/11/22	4w	
130	**5.9 Temporary offices**	**Wed 9/1/21**	**Tue 5/10/22**	**180d**	
131	5.9.1 Utility install	Wed 9/1/21	Tue 1/18/22	5mo	Operator
132	5.9.2 Site Prep	Wed 1/19/22	Tue 3/15/22	2mo	Operator
133	5.9.3 Office install	Wed 3/16/22	Tue 5/10/22	2mo	
134	**5.10 Phase 2 Complete**	Fri 8/12/22	Fri 8/12/22	1d	



SPNL PDWS 1-16-20

Gantt Chart - Incomplete Tasks

Status Date: Mon 1/13/20

Task		Inactive Task		Manual Summary Rollup		External Milestone		Manual Progress
Split		Inactive Milestone		Manual Summary		Deadline		
Milestone		Inactive Summary		Start-only		Critical		
Summary		Manual Task		Finish-only		Critical Split		
Project Summary		Duration-only		External Tasks		Progress		

HDA Schedule 4

STATE PIER COMPLEX, NEW LONDON, CT
60% Progress Cost Estimate

moffatt & nichol

This cost estimate provides rehabilitation, retrofit and build-out line items required to upgrade the facility into a Wind Turbine Generation Port
Main activities accounted for in estimate:

- Import of blades, towers and turbines off of import vessel
- Staging of turbines, blades, and tower sections
- Preassembly of tower sections
- Loadout of blades, towers and turbines onto quayside jack-up installation vessel
- Loadout (install) Berth located on east face of State Pier
- Delivery Berth located at NE Bulkhead

DATE SUBMITTED 1/20/2020

PHASE I ITEMS

No.	Item	Quantity	Unit	Unit Cost	Total Cost	Item Subtotal
1	**MOBILIZATION**					$3,060,446
1.1	Mobilization and Demobilization	1	LS	$ 3,060,446	$3,060,446	
4	**DELIVERY BERTH (Northeast Bulkhead)**					$17,563,356
4.1a	Demolition of NE Quay	499	LF	$ 197.77	$98,686	
4.1	Demolition of timber pile supported wharf	6975	SF	$ 26.66	$185,933	
4.2	Installation of heavy lift capable steel sheet pile bulkhead - 48" Diameter Pipe Pile	1537.6	Tons	$ 2,840.12	$4,366,975	
4.3	Installation of heavy lift capable steel sheet pile bulkhead - NZ-19 Sheet Pile	319.6	Tons	$ 2,840.12	$907,704	
4.4	Installation of heavy lift capable steel Relieving Platform -30" Diameter Pipe Piles	2,253	TON	$ 1,891.10	$4,260,653	
4.5	Installation of heavy lift capable Mooring Piles -48" Diameter Pipe Piles	42	TON	$ 2,280.10	$95,764	
4.5a	Cut Off Piles	198	EA	$ 104.89	$20,767	
4.5b	FPS Pile Moment Connections	346	CY	$ 961.54	$332,692	
4.5c	Install Shear Rings	196	EA	$ 124.34	$24,371	
4.5d	Furnish & Install Gravel fill between Walls	3,070	CY	$ 61.48	$188,750	
4.5e	Grade Site	30,429	SF	$ 0.52	$15,823	
4.5f	Furnish & Install Barrier	155	LF	$ 118.72	$18,401	
4.7	Install Concrete Deadman	115	LF	$ 1,046.18	$120,311	
4.8	Install Pile Supports for Concrete Deadman	27	EA	$ 7,474.63	$201,815	
4.8b	FPS Relieving Platform Slab	3,381	CY	$ 472.74	$1,598,337	
4.8c	Furnish & Install Sleeved Tierods	27	EA	$ 6,651.02	$179,577	
4.9	Backfill and Disposal	578	CY	$ 10.76	$6,218	
4.10	Dredge and placement of fill between piers	105,185	CY	$ 10.53	$1,107,598	
4.12	Installation of stone pad for jack-up vessel	15,300	LS	$ 66.33	$1,014,788	
4.13	Installation of energy absorbing fenders on bulkhead	11	EA	$ 56,212.90	$618,342	
4.15	Demolition of eastern mooring dolphins	4	EA	$ 75,145.35	$300,581	
4.16	Installation of concrete cap and fascia on bulkhead to EL -2.0 MLLW	742	LF	$ 2,395.85	$1,777,721	
4.18	Installation of 200 ton mooring bollards	11	EA	$ 11,049.87	$121,549	
5	**UPLANDS**					$22,105,501
5.1	Borrow material - onsite (site cut placed between piers)	237,019	CY	$ 4.93	$1,167,822	
5.2	Dense graded aggregate	103,327	CY	$ 66.56	$6,877,342	
5.3	3" Surface course - office area and parking lot	175	TN	$ 225.00	$39,375	

5.4	5" Base course - office area and parking lot	230	TON	$ 80.00	$18,400
5.5	8" GAB - office area and parking lot	437	TON	$ 80.00	$34,960
	Site Demolition				
5.6	Underground Utilities Demolition	8,300	LF	$ 10.00	$83,000
5.8	Storm Drainage Demolition	4,500	SF	$ 10.00	$45,000
5.10	Asphalt removal (incudes CVRR asphalt deck)	152,133	SF	$ 0.25	$38,033
5.11	Curb removal	7,310	SF	$ 5.00	$36,550
	Building Removal				
5.12	Administration building	5,200	SF	$ 8.00	$41,600
5.13	Warehouse	55,500	SF	$ 8.00	$444,000
5.14	Small building	3,300	SF	$ 8.00	$26,400
5.15	Small building	3,300	SF	$ 8.00	$26,400
5.16	Temporary building	17,100	SF	$ 8.00	$136,800
5.17	Retaining wall	781	SF	$ 211.45	$165,142
5.18	Fence	5,500	LF	$ 10.00	$55,000
5.19	Raised road and bridge demolition	823	SF	$ 180.68	$148,700
5.19a	Bridge Footing Demolition	70	CY	$ 311.01	$21,771
5.19b	Debris Disposal	52,110	Ton	$ 35.00	$1,823,850
	Civil Works Installations				
5.21	8" Water line installation	4,000	LF	$ 125.00	$500,000
5.22	6" Water line installation	500	LF	$ 80.00	$40,000
5.23	Fire Hydrant	12	EA	$ 6,500.00	$78,000
5.24	Rip Rap	23,100	CY	$ 8.57	$198,013
5.25	Chain-link fence	3,075	LF	$ 45.00	$138,375
5.26	Trench drain	1,524	LF	$ 265.88	$405,194
5.27	Deep sump	43	EA	$ 12,500.00	$537,500
5.28	12" Drainage pipe	3,692	LF	$ 31.72	$117,110
5.29	18" Drainage pipe	257	LF	$ 43.69	$11,228
5.30	24" Drainage pipe	1,340	LF	$ 59.85	$80,198
5.31	36" Drainage pipe	910	LF	$ 159.20	$144,871
5.32	42" Drainage pipe	163	LF	$ 194.43	$31,692
5.33	48" Drainage pipe	874	LF	$ 224.44	$196,163
5.34	54" Drainage pipe	367	LF	$ 291.43	$106,954
5.35	60" Drainage pipe	1,040	LF	$ 324.92	$337,917
5.36	54" Outfall	1	EA	$ 106,350.00	$106,350
5.37	60" Outfall	3	EA	$ 106,350.00	$319,050
5.38	Stormwater Treatment HDS1	1	EA	$ 71,254.50	$71,255
5.39	Stormwater Treatment HDS2	1	EA	$ 71,254.50	$71,255
5.40	Stormwater Treatment HDS3	1	EA	$ 71,254.50	$71,255
5.41	Stormwater Treatment HDS4	1	EA	$ 71,254.50	$71,255
5.42	10' x 10' Diversion manhole structure	3	EA	$ 21,270.00	$63,810
5.43	48" Stormwater manhole	5	EA	$ 21,270.00	$106,350
5.44	60" Stormwater manhole	6	EA	$ 21,270.00	$127,620
5.45	72" Stormwater manhole	12	EA	$ 21,270.00	$255,240
5.46	96" Stormwater manhole	13	EA	$ 21,270.00	$276,510

5.46a	Riprap	1,450	CY	$	22.76	$33,001
5.46b	Guardrail	330	LF	$	50.00	$16,500
5.46c	Roadwork	1,504	SY	$	125.00	$188,000
5.46d	Striping	500	LF	$	3.00	$1,500
5.46e	Mooring	4	EA	$	35,000.00	$140,000
5.46f	Rail spur - track removal	1,340	TF	$	54.00	$72,360
5.46g	Rail spur - turnout removal	2	EA	$	45,000.00	$90,000
5.47	Geotextile silt fence	6,410	LF	$	1.06	$6,817
5.48	Turbidity curtain	1,000	LF	$	26.59	$26,588
5.49	Temporary sediment trap - 22,150 CF	5	EA	$	1,595.25	$7,976
5.53	Construction entrance	2	EA	$	15,391.05	$30,782
5.54	W-Beam traffic barrier	50	LF	$	65.00	$3,250
5.55	Signage	1	LS	$	2,500.00	$2,500
5.56	Earth retention structures at base of State pier Road	667	TN	$	80.00	$53,360
	Electrical					
5.57	High mast lighting	10	EA	$	175,000.00	$1,750,000
5.58	Electrical distribution infrastructure (Duct Banks)	3,281	LF	$	25.35	$83,173
5.59	Electrical Conduit	5,961	LF	$	10.10	$60,206
5.59a	Light Pole Demolition	2	EA	$	3,500.00	$7,000
5.60	Electrical equipment	1	LS	$	989,180.00	$989,180
5.61	Special Systems (e.g. Security)	1	LS	$	100,000	$100,000
5.62	Utility infrastructure modifications	1	LS	$	250,000	$250,000
5.63	Electrical infrastructure for vessel cold ironing	1	LS	$	2,500,000	$2,500,000

PHASE II ITEMS

No.	Item	Quantity	Unit	Unit Cost	Total Cost	Item Subtotal
6	**STATE PIER/CVRR PIER/AREA BETWEEN PIERS**					$28,951,393
6.2b	Demolition of West Deck - State Pier	52,961	SF	$ 23.73	$1,256,923	
6.2c	Demolition SE Corner of State Pier	530	SF	$ 81.71	$43,308	
6.3	Demolition of SE corner of CVRR Pier	1	LS	$ 68,347.02	$68,347	
6.4	Installation of King Pile Wall - 48" Diameter Pipe Piles	1,434	Tons	$ 2,817.68	$4,041,111	
6.5	Installation of King Pile Wall - NZ-19 Sheet Piles	246	Tons	$ 2,817.68	$694,275	
6.8	Installation of Relieving Platform Pipe Piles - 30" Diameter Pipe Piles	2,238	Tons	$ 1,977.44	$4,425,515	
6.9	Installation of 72" Diameter Mooring Dolphin Piles	142	Tons	$ 2,485.15	$352,643	
6.9a	Mooring Dolphin CIP Cap	45	CY	$ 1,192.00	$53,640	
6.9b	Mooring Dolphin Catwalk	1	LS	$ 8,118.00	$8,118	
6.10	Install Pile supports for concrete deadman	26	EA	$ 7,509.43	$195,245	
6.11	Install concrete deadman	1,037	LF	$ 835.46	$866,372	
6.12	Install tie-rods	30	EA	$ 6,076.40	$182,292	
6.13	3 ft Thick Cast in Place concrete platform - Relieving Platform	3,533	CY	$ 601.43	$2,124,856	
6.16	Installation of concrete cap and fascia on Sheet Pile Walls	842	CY	$ 723.46	$609,151	
6.16a	Test Piles	6	EA	$ 11,309.41	$67,856	
6.16d	Install Berm	21,000	CY	$ 1.87	$39,270	
6.16e	Driving Equipment Standby Time	1	LS	$ 58,160.61	$58,161	
6.16f	Cutoff Piles	184	EA	$ 112.87	$20,767	

6.16g	FPS Pile Moment Connections	348	CY	$ 961.59	$334,632	
6.16h	Install Shear Rings	180	EA	$ 135.39	$24,371	
6.16i	Excavate Soil Cement for Tierods	364	CY	$ 6.92	$2,518	
6.16j	Furnish & Install Tie rods & waler	30	EA	$ 8,424.34	$252,730	
6.16k	Furnish & Install Tie rods with soil cement	364	CY	$ 99.55	$36,235	
6.16l	Furnish & Install Structural Fill behind Bulkhead	15,810	CY	$ 38.43	$607,594	
6.16m	Excavate & Remove Muck Behind Bulkhead	2,800	CY	$ 49.30	$138,029	
6.16m	Furnish & Install Gravel Fill Between Walls	65	CY	$ 71.39	$4,640	
6.16n	FPS Bulkhead Encapsulation	604	LF	$ 2,285.99	$1,380,739	
6.16o	Grade & Compact Site	31,800	SF	$ 1.00	$31,673	
6.17	Installation of steel sheet pile wall within CVRR Pier - AZ 19-700	1,037	LF	$ 835.46	$866,372	
6.18	Installation of steel sheet pile wall within CVRR Pier - AZ 36-700N	83	LF	$ 1,686.28	$139,961	
6.21	Installation of stone columns between piers	31,552	CY	$ 202.51	$6,389,540	
6.23	Installation of dense grade top surface on area between piers	54,605	CY	$ 66.56	$3,634,509	
7	**INSTALLATION VESSEL WORKS**					$2,318,540
7.1	Geogrid for jack up vessel legs	5,903	SY	$ 15.43	$ 91,083.29	
7.1b	Disposal of dredge spoils	42,510	CY	$ 33.98	$ 1,444,345.28	
7.1c	Install +/- 4 foot thick compacted layer crushed gravel (jack up legs)	11,807	CY	$ 66.33	$ 783,111.08	
8	**CONSTRUCTION COST**					**$73,999,235**
	Phase 1				$41,199,079	
	Phase 2				$32,800,156	
9	**CONSTRUCTION INDIRECTS**					**$18,181,726**
	Bonds and Insurance			1.75%	$1,585,422	
	Contractor Supervision	1	LS	$ -	$5,496,418	
	Corporate and Overhead Profits			15%	$11,099,885	
10	**ESCALATION**					**$2,304,524**
	Escalation to Midpoint of Construction			2.5%	$2,304,524	
11	**SOFT COSTS**					**$14,388,548**
	Lease of NECR Property ($525K/year with 4% escalation per year)	12	year	$525,000	$7,888,548	
	Construction Management	1	LS	$500,000	$500,000	
	Environmental and Permitting	1	LS	$500,000	$500,000	
	Engineering Design	1	LS	$3,500,000	$3,500,000	
	Environmental mitigation fees to permitting agencies	1	LS	$2,000,000	$2,000,000	
12	**Gateway Wind Down Costs**					**$2,000,000**
	Based on GT estimate (not intended to be a firm/capped figure)				$2,000,000	
13	**State Agency Costs**					**$500,000**
	Labor costs - OPM and DAS				$500,000	
14	**K2 Management**					**$300,000**
	Consulting services of JTC Chair				$300,000	
15	**CONTINGENCY**					**$11,983,525**
	As a function of Construction Cost (Item 8 above)			13.0%	$11,983,525	
16	**GRAND TOTAL AMMENDED PHASE I AND II WORK**					**$123,657,558**

Relocation of Install Vessel Berth form Southern Bulkhead to east face of State Pier						
No.	Item	Quantity	Unit	Unit Cost	Total Cost	Item Subtotal
1	**Creation of Install Vessel Berth on East Face of State Pier**					$21,078,342
1.1	Demolition of eastern pile supported platform	20,000	SF	$23.73	$474,600	
1.2	Demolition of State Pier concrete deck over earth mound	40,000	SF	$9	$360,000	
1.3	Removal of rip rap from eastern slope of State Pier earth mound	2,889	CY	$125	$361,125	
1.4	Clear sheet pile setting line	550	LF	$172	$94,600	
1.5	Installation of King Pile Wall - 48" Diameter Pipe Piles	2,870	Tons	$2,818	$8,086,730	
1.6	Installation of King Pile Wall - NZ-19 Sheet Piles	490	Tons	$2,818	$1,380,661	
1.7	Geotechnical in ground risk due to existing and unknown obstructions	1	LS	$3,000,000	$3,000,000	
1.8	Driving Equipment Standby Time	1	LS	$116,321	$116,321	
1.9	Cutoff Piles	184	EA	$113	$20,767	
2.0	Installation of concrete cap and fascia on Sheet Pile Walls	1,100	CY	$723	$795,803	
2.1	Install Pile supports for concrete deadman	13	EA	$7,509	$97,623	
2.2	Install concrete deadman	500	LF	$835	$417,730	
2.3	Install tie-rods	15	EA	$6,076	$91,146	
2.4	Installation of stone columns between piers	7,429	CY	$203	$1,504,434	
2.5	Installation of dense grade top surface on area between piers	8,889	CY	$67	$591,652	
2.6	Dredge of east face installation berth and placement between piers	40,000	CY	$10.53	$421,200	
2.7	Dredge of turning basin for east face State Pier Berthing	100,000	CY	$10.53	$1,053,000	
2.8	Import and placement and compaction of fill on eastern slope of State Pier earth mound	20,000	CY	$39	$780,000	
2.9	East face energy absorbing fender upgrade	10	ea	$50,000	$500,000	
3.0	East face State Pier mooring bollard upgrade	10	ea	$40,000	$400,000	
3.1	Installation of northern 72" Diameter Mooring Dolphin Piles	142	Tons	$2,485	$352,643	
3.2	Northern Mooring Dolphin CIP Cap	150	CY	$900	$135,000	
3.3	Demolition for northern Install Vessel mooring bollard	530	SF	$82	$43,308	
2	**CONSTRUCTION COST**					**$21,078,342**
3	**CONSTRUCTION INDIRECTS**					**$5,163,355**
	Bonds and Insurance			1.75%	$451,331	
	Contractor Supervision	1	LS	$ -	$1,550,272	
	Corporate and Overhead Profits			15.0%	$3,161,751	
4	**ESCALATION**					**$656,042**
	Escalation to Midpoint of Construction			2.5%	$656,042	
5	**SOFT COSTS**					**$3,350,000**
	Geotechnical Investigations (change in scope + new jack up seabed grid)	1	LS	$450,000	$450,000	
	Permitting (change in scope)	1	LS	$300,000	$300,000	
	Engineering Design (change in scope)	1	LS	$900,000	$900,000	
	Technical Resident Engineering Services	1	LS	$950,000	$950,000	
	Environmental Mitigation	1	LS	$1,000,000	$750,000	
6	**CONTINGENCY**					**$10,936,255**
	Contingency			15%	$3,936,255	
	Disposal of Dredged Material Upland	1	LS	$ 7,000,000	$7,000,000	
7	**GRAND TOTAL NEW BERTH EAST FACE OF STATE PIER**					**$41,183,994**

COMBINED COSTS: PHASE 1 AND 2 SCOPE COMBINED WITH SHIFT OF INSTALL VESSEL FROM SOUHERN BERTH TO EAST FACE OF STATE PIER

1	PHASE I AND II AMENDED SCOPE DIRECT CONSTRUCTION COSTS	$73,999,235
2	PHASE I AND II AMENDED SCOPE INDIRECT COSTS AND ESCALATION	$20,486,250
3	PHASE I AND II AMENDED SCOPE SOFT COSTS	$17,188,548
4	PHASE I AND II AMENDED SCOPE CONTINGENCY	$11,983,525
5	PHASE I AND II AMENDED SCOPE TOTAL	$123,657,558
6	PRELIMINARY EAST FACE STATE PIER INSTALL VESSEL BERTHING SCOPE DIRECT CONSTRUCTION COSTS	$21,078,342
7	PRELIMINARY EAST FACE STATE PIER INSTALL VESSEL BERTHING SCOPE INDIRECT COSTS AND ESCALATION	$5,819,397
8	PRELIMINARY EAST FACE STATE PIER INSTALL VESSEL BERTHING SCOPE SOFT COSTS	$3,350,000
9	PRELIMINARY EAST FACE STATE PIER INSTALL VESSEL BERTHING SCOPE CONSTRUCTION CONTINGENCY	$3,936,255
10	PRELIMINARY EAST FACE STATE PIER INSTALL VESSEL BERTHING SCOPE SOIL REMOVAL CONTINGENCY (This contingency is required to meet the current projected schedule. However if the schedule is expanded to include a second dredge window this contingency can be eliminated)	$7,000,000
11	PRELIMINARY EAST FACE STATE PIER INSTALL VESSEL BERTHING SCOPE TOTAL	$41,183,994
	TOTAL OPINION OF PROBABLE COST FOR CONSTRUCTION	$121,383,224
	TOTAL OPINION OF PROBABLE COST FOR CONSTRUCTION WITH SOFT COSTS AND CONTINGENCIES	$164,841,551
	TOTAL OPINION OF PROBABLE COST FOR CONSTRUCTION WITH SOFT COSTS AND CONSTRUCTION CONTINGENCIES (soil removal contingency removed)	$157,841,551

Adjustment to reconcile with Budget Cost definition in HDA	($841,551)
BUDGETED COSTS PER HDA	$157,000,000

Assumptions and Exclusions

1	This estimate adds line items required for the berthing of the install vessel on the east face of the State Pier. It also removes items that are no longer required due to the removal of this vessel from the southern bulkhead
2	The Combined Costs total incorporates the work required for Phase 1 and 2 with the placement of the install vessel on the east berth of the State Pier
3	The line items included in the Relocation of the Install Vessel from the Southern Bulkhead to the East Face of State Pier include a 400ft long by 80 ft wide pile supported heavy lift platform. The southern endo of this platform is located approximately 250 ft from the southern end of the State Pier. This also includes a 400 ft long by 120 ft wide 5000 psf heavily lift area augmented with stone columns.
4	Base case Southern Bulkhead will be designed to handle a future dredge depth up to -25.0 MLLW.
5	The layout of this proposed new terminal configuration is shown in the document entitled "INSTALL VESSEL EAST FACE LOADIGN PLAN - Layout 1 (1-10-20)"
6	This new layout leaves the northern 350 ft and the southern 250 ft (approximate) in the existing condition. These areas will receive no upgrades.
7	The bow of the install vessel will be located with its bow 75 ft from south side of State Pier. This will allow for the bow mooring bollard to be located within the existing footprint of state pier.
8	The soft cost fees (item 4) in the CONCEPTUAL ORDER OF MAGNITUDE OPINION OF PROBABLE COST FOR RELOCATION OF INSTALL VESSEL BERTH TO EAST FACE OF STATE PIER were estimated for the purposes of this opinion of probable cost.
9	Fee for Technical Resident Engineering Services reflects the scope of work currently under review by the OPM and DAS.
10	It is assumed that the work described above in the section titled "will be part of an addendum to the existing JPA permit
11	Construction supervision includes costs required for contractor supervision of staff during the duration of the project construction. These are staff that will be hired specifically for this project or paid for using project funds. This includes but is not limited to site superintendents, project engineers and QC and/or safety engineers.

When reviewing the above estimated costs it is important to note the following:

1	The costs have been developed based on historical and current data using in-house sources.

2	A contingency amount has been included to cover undefined items, due to the level of engineering carried out at this time. The contingency is not a reflection of the accuracy of the estimates but covers items
3	This construction cost estimate is an 'Opinion of Probable Cost' made by a consultant. In providing opinions of construction cost, it is recognized that neither the client nor the consultant has control over the
4	Pricing is based on US dollars.
5	Pricing assumes all resources are readily available locally.
6	Price is based on unencumbered contractor access to the site.
7	Price does not include any associated costs due to hazardous waste.
8	Price does not include any associated costs due to rock dredging.
9	Price does not include any associated costs due to pile driving/drilling into rock.
10	Price does not include any costs for post construction site remediation or reconstruction
11	Costs for owner's project management or overhead expenses are not included.

Exhibit A

Certain Concession Agreement Provisions

In this Exhibit A to Sublease Agreement, unless the subject or context otherwise requires, capitalized terms shall have the meanings given to them in the Sublease Agreement, or if not defined in the Sublease Agreement, in Part I of Annex A of the Concession Agreement. However, for the avoidance of doubt, "Project" as used in this Exhibit A has the meaning provided in the Sublease Agreement and not in the Concession Agreement. This Exhibit A forms an integral part of the Sublease Agreement pursuant to Section 10 thereof. (This Exhibit A is also Schedule 5 to the Harbor Development Agreement and applies during the term thereof pursuant to Section 9.4.3 thereof.) Unless otherwise stated, references in this Exhibit A to sections refer to sections in the Concession Agreement.

Subject to the provisions set forth in Sections 2.4, 5.2.4 and 5.2.5 of the Harbor Development Agreement, the Authority and Gateway agree upon the following terms and provisions relating to the Concession Agreement:

1. This Exhibit A to Sublease Agreement (and also Schedule 5 to the Harbor Development Agreement) forms a part of the Concession Agreement (Section 1.4). In the event of ambiguities or discrepancies among the several documents forming the Concession Agreement, the priority of the documents forming the Concession Agreement shall be first this Exhibit A to Sublease Agreement, and then as provided in Section 1.5 of the Concession Agreement.

2. Once the Project work commences, for the avoidance of doubt, notwithstanding Gateway's acceptance of the Site from the Authority in "AS IS" condition pursuant to Section 2.1.2 of the Concession Agreement, Gateway reserves any rights it may have under Sections 5.4, 5.5 and 16.2.6 of the Harbor Development Agreement in respect of Substantial Completion and Final Acceptance of the Project, including any available construction and design warranties from third parties. Subject to the preceding sentence, after the occurrence of Substantial Completion under the Harbor Development Agreement, Gateway's suspension of operation will end as provided in Sections 5.6.1 and 9.4.1 of the Harbor Development Agreement and Gateway will resume control of and responsibility for ongoing port operations.

3. For such period of time as the Sublease Agreement is continuing and in full force and effect, the last sentence of Section 2.2.1(d) of the Concession Agreement regarding annual notice by Gateway of all Movable Property and Fixtures and Fittings acquired by Gateway is suspended insofar as it pertains to the Capital Improvements Commitment under Section 9.4.1 of the Concession Agreement. The Authority, Gateway and NEO nonetheless shall maintain in their respective records appropriate documentation of which Movable Property, Fixtures and Fittings are acquired by such Party.

4. Commencing with the Project work through the term of the Harbor Development Agreement, and thereafter for such period as the Sublease Agreement is continuing and in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway will (i) be required to make the Variable Fee payment only under clause (a), but not under clause (b), of

Section 2.4.2 of the Concession Agreement, and (ii) not be required to make Annual Fixed Fee payments or Minimum Annual Guarantee payments (Sections 2.4.1 and 2.4.2 of the Concession Agreement).

5. During the term of the Harbor Development Agreement and thereafter for such period of time as the Sublease Agreement is continuing and in full force and effect, the requirement for Gateway to provide a Letter of Credit to the Authority is suspended (Section 2.4.3 of the Concession Agreement).

6. As reflected in Sublease Agreement Recital E the Project is the "BSW Development" and thus in accordance with the terms of Section 2.4.4 of the Concession Agreement, upon the execution of the Harbor Development Agreement, Gateway is no longer responsible for reimbursement of costs in respect of any feasibility study concerning wind energy uses (Section 2.4.4 of the Concession Agreement).

7. During the term of the Harbor Development Agreement, Gateway's agreement to assume and discharge or perform when due all debts and obligations whatsoever relating to the Site, the Port Facilities and the Port Services is modified, and thereafter for such period of time as the Sublease Agreement is continuing and in full force and effect, to not apply insofar as pertains (i) to all debts and obligations whatsoever relating to the Project construction and (ii) to NEO's obligations under the Harbor Development Agreement and under the Sublease Agreement (Section 2.7 of the Concession Agreement).

8. For such period of time as the Sublease Agreement is in full force and effect, and no Gateway Event of Default has occurred thereunder, Gateway's obligation to accommodate and to use reasonable efforts to coordinate the Ferry berthing is suspended (Section 7.2.3 of the Concession Agreement).

9. While the Project is under construction, and further thereafter during NEO's Active Periods (as defined in the Sublease Agreement) and for such period of time as the Sublease Agreement is in full force and effect, and no Gateway Event of Default has occurred thereunder, Gateway's obligations to operate the Port Facilities to provide Port Services (except for specified services to NEO and the OEMs, as defined in the Sublease Agreement) and to maximize Throughput Volume are suspended (Concession Agreement Sections 2.3.1, 2.3.2, 8.1, and 8.8, and Annex B Paragraph 6).

10. For such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway and the Authority each acknowledge, as to itself, that there are no Cranes owned or leased by Gateway or the Authority on the Site, and no Cranes will be installed by Gateway as part of the Project, and therefore Cranes are excluded from Gateway's obligations (Sections 2.2.1(d), 9.1, 9.2, 9.3, and 15.6.7, and Annex B Paragraphs 2.1 and 2.4, and other references of the Concession Agreement). It is acknowledged that any new mobile heavy lift crane is an OEM item.

11. During the Project until Final Acceptance under the Harbor Development Agreement and for such period of time as the Sublease Agreement is in full force and effect, and no Gateway Event of Default has occurred thereunder, Gateway's obligation to maintain the Site and the Port

Facilities in good, sanitary and safe working condition is suspended except as it relates to specified services to NEO and the OEMs, as defined in the Sublease Agreement. Furthermore, during the Project and for such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway's obligations under Section 9.2 of the Concession Agreement to periodically overhaul, rehabilitate, refurnish or replace components or elements of the Site and the Port Facilities is suspended until Final Acceptance under the Harbor Development Agreement except as it relates to specified services to NEO and the OEMs, as defined in the Sublease Agreement.

12. For such period of time as the Harbor Development Agreement is in full force and effect, Gateway's obligation to restore and repair damaged or destroyed parts of the Site or the Port Facilities under Section 9.3 of the Concession Agreement is suspended insofar as pertains to damage or destruction caused by EPC Contractor or the Authority (Section 9.3 and Annex B Paragraph 2.5 of the Concession Agreement); provided, however, that Section 9.3 of the Concession Agreement will apply to any structural damage to the State Pier that the Authority identifies in writing (with reasonable supporting documentation) to Gateway no later than thirty (30) days after Gateway ceases pier operations as having been caused by Gateway. For such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway's obligation to restore and repair damaged or destroyed parts of the Site or the Port Facilities under Section 9.3 is suspended insofar as pertains to damage or destruction caused by NEO or an OEM (Section 9.3 and Annex B Paragraph 2.5 of the Concession Agreement). In other respects and at other times, Gateway shall undertake to promptly restore damage or destruction to the extent of available insurance proceeds and as required by the Concession Agreement.

13. During the term of the Harbor Development Agreement and thereafter for such period of time as the Sublease Agreement is in full force and effect, and no Gateway Event of Default has occurred thereunder, Gateway's Capital Improvements Commitment under Section 9.4 is thereby satisfied by the provision of NEO's funding commitments under the Harbor Development Agreement. Nonetheless, during Idle Periods (as defined in the Sublease Agreement), Gateway agrees to have the requisite equipment needed to perform the Port Services.

14. It is agreed that the quarterly reports provided under Section 10.5 of the Concession Agreement shall be provided on a calendar quarter basis, as with the reports under Section 10.4 of the Concession Agreement.

15. During the Project and thereafter for such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway's responsibility to provide an Annual Environmental Report is suspended (Section 10.8 of the Concession Agreement). Additionally, during the Project Gateway will not be responsible for coordinating mitigation plans and for compliance with obligations set forth as part of the permits for the Project (Exhibit B Section 3.1 of the Concession Agreement).

16. Gateway's obligations to indemnify the Authority Indemnified Parties under Section 12 of the Concession Agreement shall not extend to the actions or omissions of NEO or any OEM or otherwise arising out of or as a consequence of any claim or action by any Person employed by NEO or any OEM.

17. During the Project, the insurance provisions of the Harbor Development Agreement will prevail over the insurance provisions of the Concession Agreement, and Gateway's insurance requirements are suspended but only for such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder. Without limiting the foregoing and for such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway's requirement to procure property insurance under the Concession Agreement is suspended.

18. Pursuant to Section 22.1 of the Concession Agreement, Gateway hereby provides notice to the Authority that the address for the copy of notices to Gateway is changed to be:

Phelps Dunbar, L.L.P.
365 Canal Street, Suite 2000
New Orleans, Louisiana 70130
Attn: James A. Stuckey

19. During the Project and thereafter for such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default (excluding for this paragraph a Gateway Event of Default arising solely from Sublease Agreement Section 12.4.3) has occurred thereunder, the berths at the Site will have been fundamentally altered by the Project, and Gateway is relieved of any obligation to share in dredging costs (Annex B Paragraphs 2.5 and 2.6 of the Concession Agreement).

20. During the Project and thereafter for such period of time as the Sublease Agreement is in full force and effect and no Gateway Event of Default has occurred thereunder, Gateway's responsibilities for security and utilities may be altered in coordination and agreement with the EPC Contractor under the Harbor Development Agreement (Annex B Paragraphs 2.11 and 2.15 of the Concession Agreement).

SCHEDULE 6

INSURANCE REQUIREMENTS OF AUTHORITY AND AUTHORITY'S CONTRACTOR(S) AND DESIGN CONSULTANTS

1. The Authority shall provide and maintain, or cause the EPC Contractor and the Subcontractors, where applicable, who is performing the Work with respect to or in connection with the Work with respect to the Project to provide or maintain, the types and amounts of insurance set forth in this Schedule 6 at all times during the Term. The insurance carriers providing insurance as described in this Schedule 6 shall have an A.M. Best Financial Rating of "A-" or better and a financial size category of "IX" or higher with limits, or if unrated, such carriers shall be acceptable to all Parties, which acceptance shall not be unreasonably withheld.

2. The Authority shall provide and maintain, or cause the EPC Contractor and the Subcontractors, where applicable, who is performing the Work with respect to or in connection with the Project, the following insurance:

    a. Workers' Compensation Insurance; Employer's Liability Insurance. Employer's liability Insurance with a USD 1 million limit per accident and disease. If Work is to be performed on or near navigable waters, the policy shall include the maritime coverage endorsement including coverage for the Jones Act (including all transportation, wages, maintenance and cure), the Death on the High Seas Act and other applicable maritime Laws and Codes and provide further that a claim in rem shall be treated as a claim against the employer. A maritime employers' liability and/or protection and indemnity policy may be used to satisfy applicable parts of this requirement with respect to Work performed on or near navigable waters. The Subcontractors shall provide the same coverage limits as the EPC Contractor.

    b. Workers' Compensation Insurance (including occupational disease) as required by the statutory benefit laws of the state or states where the Services are to be performed (or any associated Materials and Equipment created) or as required by any other state where the employee performing the Services (or creating, assembling, delivering, or otherwise working on any associated Materials and Equipment) is normally employed, or approval as a qualified self-insurer as required by applicable state laws. If Work is to be performed on or near navigable waters, the policy shall include coverage for the United States Longshoreman's and Harbor Workers' Act, the Outer Continental Shelf Lands Act and other applicable maritime Laws and Codes. Such insurance shall include an "Alternate Employer Endorsement." The Subcontractors shall provide the same coverage limit as the EPC Contractor.

    c. Commercial General Liability Insurance. Commercial liability insurance against claims for personal injury (including bodily injury and death) and property damage. Such insurance shall provide coverage for products liability/completed operations (which coverage shall remain in effect for a period of at least three years following the Term), blanket contractual, explosion, collapse and underground coverage, broad form property damage, and personal injury insurance, with a one million US Dollars ($1,000,000) minimum limit per occurrence coverage (with fifty million US Dollars ($50,000,000 in

umbrella/excess coverage) for combined bodily injury and property damage. The commercial general liability insurance policy shall be endorsed to provide primary and non-contributing liability. Coverage shall include stevedore and wharfingers liability, with no marine operation related exclusions.

d. Contractors Pollution Liability Insurance with a limit of ten million US Dollars ($10,000,000) each occurrence and in the annual aggregate. Such insurance shall cover sudden and gradual pollution losses arising from the Work performed under this Agreement and include completed operations coverage with the same limits for at least three (3) years following performance of the Services. The EPC Contractor's policy shall include all Subcontractors as additional insureds or the EPC Contractor shall furnish to the Authority separate certificates of insurance and endorsements for each Subcontractor that will be subject to the same coverage requirements of the EPC Contractor.

e. Automobile Liability Insurance. Automobile liability insurance against claims of personal injury (including bodily injury and death) and property damage, including automobile uninsured/underinsured motorist protection endorsements, covering all owned (if any), leased, non-owned and hired vehicles used in the performance of the Authority's or Subcontractor's obligations under this Contract with a one million US Dollars ($1,000,000) minimum limit per occurrence for combined bodily injury and property damage and containing appropriate no-fault insurance provisions wherever applicable.

f. Professional Liability Insurance. To the extent each of the EPC Contractor and the Designer is required to furnish professional services as part of the Work, each of the EPC Contractor and the Designer shall procure Professional liability insurance issued by an insurance company acceptable to Owner having minimum limits of five million US Dollars ($5,000,000) for each claim and in the annual aggregate. Such insurance shall have a deductible not in excess of twenty-five thousand US Dollars ($25,000) and shall remain in full force and effect during the Term and for a period of two (2) years thereafter.

g. Protection and Indemnity Insurance. To the extent Vessels are being operated in connection with the performance of the Work for the Project: Protection and Indemnity Insurance including contractual liability, collision liability, specialist operations, tower's liability, and pollution buy-back endorsement, wreck removal and removal of debris coverage extensions and specialist operations including, but not limited to, dredging, pile driving, cable laying, heavy lifts and installation or its equivalent with limits of at least twenty million US Dollars ($20,000,000) each occurrence. However, with regards to small value workboats and other vessels not involved in major installation activities, lesser amounts of Protection and Indemnity Insurance may be allowable, however never less than one million US Dollars ($1,000,000) each occurrence;

   Vessel Pollution Insurance subject to not less than the full limits and conditions available through the Water Quality Insurance Syndicate or its equivalent for OPA, CERCLA and other substances coverage;

   Hull and Machinery Insurance not less than the full replacement value.

3. **Property Insurance**. "All Risk" Property Damage and Builder's Risk (Course of Construction) insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and the existing property values as required under the Concession Agreement, shall be procured and maintained by the Authority during the performance of the Work. These policies shall be provided on a full value bases and have no coinsurance penalty provisions. Such property insurance shall be procured for the benefit of NEO and Gateway.

Additional Insured. To the fullest extent permitted by law, the Authority, the EPC Contractor, and applicable Subcontractors working on behalf of the Authority shall cause the commercial general liability coverage to include NEO and Gateway as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of NEO's or Gateway's general liability insurance policies and shall apply to both ongoing and completed operations. The additional insured endorsement should be a scheduled endorsement naming North East Offshore LLC and Gateway New London LLC as additional insureds. A copy of the additional insured endorsement shall be provided to NEO and Gateway.

HDA Schedule 7

APPLICATION AND CERTIFICATE FOR PAYMENT

DPW Project Number: TOB-002

TO: DAS Construction Services
450 Columbus Blvd.
13th Floor
Hartford,CT 06103

APPLICATION NO: 001

VIA CA: zzz-test CMR sub - not a real company

APPLICATION DATE:

General Contractor (GC) / Construction Manager at Risk (CMR) zzz-testing purposes not real company

FOR PERIOD THRU: 9/30/2018

PROJECT DESCRIPTION: O'Brien test project 2

CONTRACT START DATE:

ORIGINAL BID/CONTRACT AMOUNT: $3.00

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment as shown below, in connection with the Contract.
Continuation Sheet is attached.

1. ORIGINAL CONTRACT SUM	$3.00
2. Net change by Change Order	$1.00
3. CONTRACT SUM TO DATE	$4.00
4. TOTAL COMPLETED & STORED TO DATE	$2.00
5. RETAINAGE:	$0.20
6. Securities in lieu of Retainage:	
7. Net Cash Retainage:	$0.20
8. TOTAL EARNED LESS RETAINAGE	$1.80
9. LESS PREVIOUS CERTIFICATES FOR PAYMENT	$0.00
10. CURRENT PAYMENT DUE	$1.80
11. BALANCE TO FINISH, INCLUDING RETAINAGE	$2.20

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes previously certified by Owner	$0.00	$0.00
Total approved this month	$0.00	$0.00
TOTALS	$0.00	$0.00
NET CHANGES by Change Order		$0.00

The undersigned General Contractor certifies that to the best of the Contractor's knowledge, information and the belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

General Contractor (GC) / Construction Manager at Risk (CMR):

By: _____ Date: _____

TO BE USED FOR FINAL REQUISITION ONLY

State of Connecticut County of: _____

Subscribed and sworn to before me this: _____ day of _____

Notary Public:

My Commission expires: _____

ARCHITECT / ENGINEER'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on the on-site observations and the data comprising this application, the architect certifies to the Owner that to the best of the Architect's / Engineer's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the contract Documents, and the contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED ..... $ _____

(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

Architect / Engineer:

By: _____ Date: _____

CA:

By: _____ Date: _____

DPW PROJECT MANAGER: TOB_002

By: _____ Date: _____

This certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of Owner or Contractor under this Contract.

APPLICATION AND CERTIFICATE FOR PAYMENT

DPW Project Number: TOB-002

CONTINUATION SHEET

APPLICATION AND CERTIFICATE FOR PAYMENT
Containing Contractor's signed Certificate, is attached
In tabulations below, amounts are stated to the nearest dollar.
Use column I on Contracts where variable retainage on items may apply.

APPLICATION NO: 001
APPLICATION DATE:
PERIOD TO: 9/30/2018

A	B	C	D	E	F	G		H	I
ITEM NUMBER	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED FROM PREV	WORK COMPLETED THIS PERIOD	MATERIALS CURR STORED (Not in D or E)	TOTAL COMPLETED & STORED TO DATE (D + E + F)	% (G / C)	BALANCE TO FINISH (C-G)	RETAINAGE
001	Total Construction	$1.00	$0.00	$1.00	$0.00	$1.00	100.00%	$0.00	$0.10
002	Total Construction 2	$2.00	$0.00	$1.00	$0.00	$1.00	50.00%	$1.00	$0.10
003	this item	$1.00	$0.00	$0.00	$0.00	$0.00	0.00%	$1.00	$0.00
	Total	**$4.00**	**$0.00**	**$2.00**	**$0.00**	**$2.00**	**50.00%**	**$2.00**	**$0.20**

SCHEDULE 8

CONTRACTING REQUIREMENTS

Connecticut Port Authority
Procurement and Contracting Requirements

Section 1.1 Non-Discrimination. Gateway and NEO, in accordance with Applicable Law, each agree and warrant that in the performance of each of their respective duties and obligations under this Harbor Development Agreement, they will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, sexual orientation, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by Gateway or NEO, as applicable, that such disability prevents performance of their respective duties and obligations under this Harbor Development Agreement, in any manner prohibited by Applicable Law. Gateway and NEO each further agree to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, sexual orientation, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by Gateway or NEO, as applicable, that such disability prevents performance of their respective duties and obligations under this Harbor Development Agreement;

(a) Gateway and NEO each agree, in all solicitations or advertisements for employees placed by or on behalf of Gateway or NEO, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Connecticut Commission on Human Rights and Opportunities (the "**CHRO**");

(b) Gateway and NEO each agree to provide each labor union or representative of workers with which Gateway or NEO has a collective bargaining agreement or other contract or understanding and each vendor with which Gateway or NEO has a contract or understanding, a notice to be provided by the CHRO, advising the labor union or workers' representative of Gateway's or NEO's commitments under Sections 4a-60 and 4a-60a of the Connecticut General Statutes as amended from time to time (the "**Connecticut General Statutes**") and to post copies of the notice in conspicuous places available to employees and applicants for employment;

(c) Gateway and NEO each agree to comply with each provision of Sections 4a-60, 4a-60a, 46a-68e, and 46a-68f, inclusive, of the Connecticut General Statutes and with each regulation or relevant order issued by the CHRO pursuant to Sections 46a-56, 46a-68e, and 46a-68f of the Connecticut General Statutes; and

(d) Gateway and NEO each agree to provide the CHRO with such information requested by the CHRO, and to permit access to pertinent books, records and accounts concerning the employment practices and procedures of Gateway or NEO as they relate to the provisions of Sections 4a-60, 4a-60a and 46a-56 of the Connecticut General Statutes (*See generally* **Exhibit F**).

(e) Gateway and NEO, where any such contract is valued at less than $50,000 for each year of the contract, or if Gateway or NEO is party to quasi-public agency project, as such term is defined in Section 4a-60g(15) of the General Statutes, shall each provide the

CHRO with a written or electronic representation that complies with the nondiscrimination agreement and warranty under Section 1.1 above, provided if there is any change in such representation, Gateway and NEO shall provide the updated representation to the CHRO not later than 30 days after such change. Gateway and NEO, where any such contract is valued at $50,000 or more for any year of the contract, or if Gateway or NEO is party to a quasi-public agency project, shall each provide, as applicable, the CHRO with any one of the following: (i) documentation in the form of a company or corporate policy adopted by resolution of the board of directors, shareholder, managers, members or other governing body of Gateway or NEO, as applicable, that complies with the nondiscrimination agreement and warranty under Section 1.1 above; (ii) documentation in the form of a company or corporate policy adopted by a prior resolution of the board of directors, shareholders, managers, members or other governing body of Gateway or NEO, as applicable, if (a) the prior resolution is certified by a duly authorized corporate officer of Gateway or NEO, as applicable, to be in effect on the date the documentation is submitted, and (b) the Chairperson, Vice Chairperson or Executive Director of the Authority or CHRO or designee certifies that the prior resolution complies with the nondiscrimination agreement and warranty under Section 1.1 above; or (iii) documentation in the form of an affidavit signed under penalty of false statement by a chief executive officer, president, chairperson or other corporate officer duly authorized to adopt company or corporate policy that certifies that the company or corporate policy of Gateway or NEO, as applicable, complies with the nondiscrimination agreement and warranty under Section 1.1 above and is in effect on the date the affidavit is signed.

(f) If the Harbor Development Agreement is a municipal public works contract or a quasi-public agency project, as such terms are defined in Section 4a-60g(15) of the General Statutes, Gateway and NEO each agree and warrant that they will each make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project. Gateway and NEO shall each include the provisions of Section 1.1 in every subcontract or purchase order entered into to fulfill any obligation of a municipal public works contract or contract for a quasi-public agency project, and such provisions shall be binding on a subcontractor, vendor or manufacturer, unless exempted by regulations or orders of the CHRO. Gateway and NEO shall each take such action with respect to any such subcontract or purchase order as the CHRO may direct as a means of enforcing such provisions, including sanctions for noncompliance in accordance with Section 46a-56; provided, if Gateway or NEO becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the CHRO regarding a state contract, Gateway or NEO, as applicable, may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

Section 1.2 Set-Aside Programs. The Authority is required to comply with any applicable set-aside small contractors and minority business enterprise requirements set forth in Section 4a-60g of the Connecticut General Statutes. The Authority is required to set aside 25% of the total value of all projected annual contracts (in which the total value of the contract is greater than $10,000) or portions of such contracts to be awarded to small contractors, on the basis of competitive bidding procedures, for the construction, reconstruction or rehabilitation of public buildings, the construction and maintenance of highways and the purchase of goods and services. Of that portion to be set aside to small contractors, 25% must be reserved (6.25% of the total value of all projected annual contracts) for awards to minority business enterprises, as defined in Section 4a-60g(a)(3) of the Connecticut General Statutes, (the "Set-Aside Program"). Pursuant to

this Section 1.2, Gateway and NEO shall each comply and complete the Authority's obligations to comply with the Set-Aside Program, including as follows below.

(a) Gateway and NEO shall each require that contractors or subcontractors, awarded a contract or a portion of a contract under the Set-Aside Program, set aside 25% of the total value of the Harbor Development Agreement to be awarded to small contractors, on the basis of competitive bidding procedures. Of that portion to be set aside to small contractors, 25% must be reserved (6.25% of the total value of all projected annual contracts) for awards to minority business enterprises, as defined in the Set-Aside Program.

(b) Gateway and NEO shall each require that contractors or subcontractors, awarded a contract or a portion of a contract under the Set-Aside Program, perform not less than 30% of the work with the workforces of such contractors or subcontractors and shall require that not less than 50% of the work be performed by such contractors or subcontractors eligible for awards under the Set-Aside Program. A contractor awarded a contract or a portion of a contract under the Set-Aside Program shall not subcontract with any person with whom the contractor is affiliated. No person who is affiliated with another person shall be eligible for awards under the Set-Aside Program if both affiliated persons considered together would not qualify as a small contractor or a minority business enterprise. Gateway and NEO shall each require that the contractors or subcontractors awarded a contract pursuant to the Set-Aside Program submit, in writing, an explanation of any subcontract to such contract that is entered into with any person that is not eligible for the award of a contract pursuant to the Set-Aside Program, prior to the performance of any work pursuant to such subcontract. A copy of such explanation shall be provided to the Authority by each of Gateway and NEO, as applicable.

(c) Gateway and/or NEO shall be in breach of this Harbor Development Agreement if Gateway or NEO, as applicable, is certified as a "small contractor" or a "minority business enterprise" under Conn. Gen. Stat. § 4a-60g and that certification lapses during the Term of this Harbor Development Agreement.

(d) For quasi-public agency projects, as defined in Section 4a-60g of the Connecticut General Statutes, Gateway and NEO shall each, pursuant to Section 4a-60g(c) of the Connecticut General Statutes, on the basis of competitive bidding procedures, set aside at least 25% of the total value of the state's financial assistance for such contract for award to subcontractors who are small contractors, and of that portion to be set aside, reserve another portion equivalent to 25% of the total value of the contract or portions thereof to be set aside for awards to subcontractors who are minority business enterprises.

Section 1.3 Prevailing Wages. Gateway and NEO shall each comply with prevailing wages laws for all labor engaged in connection with the Services, pursuant to C.G.S. Sec. 31-53 and 31-53a, as applicable, for contracts for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project where the total cost of all work to be performed by all contractors and subcontractors in connection with new construction of a public works project is more than one million ($1,000,000) dollars and the remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project under one hundred thousand ($100,000) dollars.

If Prevailing Wage Rates are required, wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in C.G.S. Sec. 31-53(i), shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

Section 1.4 Occupational Safety and Health Act Compliance. Gateway and NEO each individually certify, pursuant to C.G.S. Sec. 31-57b, that they have not: (1) been cited for three or more willful or serious violations of any occupational safety and health act or of any standard, order or regulation promulgated pursuant to such act, during the three-year period preceding the date of this Harbor Development Agreement, provided such violations were cited in accordance with the provisions of any state occupational safety and health act or the Occupational Safety and Health Act of 1970, and not abated within the time fixed by the citation and such citation has not been set aside following appeal to the appropriate agency or court having jurisdiction; or (2) received one or more criminal convictions related to the injury or death of any employee in the three-year period preceding the date of this Harbor Development Agreement.

Section 1.5 Whistleblower Protection. If any officer, employee or appointing authority of Gateway or NEO takes or threatens to take any personnel action against any of their respective employee in retaliation for such employee's disclosure of information to the Auditors of Public Accounts or the Attorney General under the provisions of Connecticut General Statutes Section 4-61dd, Gateway and NEO, as applicable, shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and direct offense. Gateway and NEO shall each post a notice in a conspicuous place which is readily available for viewing by employees of the provisions of Connecticut General Statutes Section 4-61dd relating to large state contractors.

Section 1.6 Campaign Contribution And Solicitation Prohibitions. For all State of Connecticut contracts as defined in Section 9-612 of the Connecticut General Statutes having a value in a calendar year of $50,000 or more or a combination or series of such agreements or contracts having a value of $100,000 or more, the authorized signatory to this Harbor Development Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice, SEEC Form 10 in Exhibit A, advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice.

Section 1.7 Affidavit Concerning Nondiscrimination. At the time of Gateway's and NEO's execution of this Harbor Development Agreement, Gateway and NEO each simultaneously, if applicable, executed a document entitled Affidavit Concerning Nondiscrimination and said document is attached hereto and made a part of this Harbor Development Agreement as Exhibit B.

Section 1.8 Affidavit Concerning Consulting Fees. At the time of Gateway's and NEO's execution of this Harbor Development Agreement, Gateway and NEO each simultaneously, if applicable, executed a document entitled Affidavit Concerning Consulting Fees and said document is attached hereto and made a part of this Harbor Development Agreement as Exhibit C.

Section 1.9 Contractor's Certification Concerning Gifts. At the time of Gateway's and NEO's execution of this Harbor Development Agreement, Gateway and NEO each simultaneously, if applicable, executed a document entitled Contractor's Certification Concerning Gifts and said document is attached hereto and made a part of this Harbor Development Agreement as Exhibit D.

Section 1.10 Chairperson's Certification Concerning Gifts. At the time of the Chairperson's execution of this Harbor Development Agreement, the Chairperson simultaneously, if applicable, executed a document entitled Chairperson's Certification Concerning Gifts and said document is attached hereto and made a part of this Harbor Development Agreement as Exhibit E.

Section 1.11 Iran Certification Form. At the time of Gateway's and NEO's execution of this Harbor Development Agreement, Gateway and NEO each simultaneously, if applicable, executed a document entitled Iran Certification Form and said document is attached hereto and made a part of this Harbor Development Agreement as Exhibit G.

Section 1.12 State Ethics Laws Summary. At the time of Gateway's and NEO's execution of this Harbor Development Agreement, Gateway and NEO each simultaneously, if applicable, executed a document entitled Affirmation of Receipt of State Ethics Laws Summary and said document is attached hereto and made a part of this Harbor Development Agreement as Exhibit H.

EXHIBIT A

(SEEC FORM 10 ATTACHED)

Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

Acknowledgement of Receipt of Explanation of Prohibitions for Incorporation in Contracting and Bidding Documents

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined on the reverse side of this page).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract* or *state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall **knowingly** *solicit* contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor* or *principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—Up to $2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to $2,000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than $5,000 in fines, or both.

CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may resulting the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract,* (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.

ACKNOWLEDGEMENT OF RECEIPT

SIGNATURE

DATE (mm/dd/yyyy)

NAME OF SIGNER

First Name	MI	Last Name	Suffix

TITLE

COMPANY NAME

Additional information may be found on the website of the State Elections Enforcement Commission,
www.ct.gov/seec
Click on the link to "Lobbyist/Contractor Limitations"

EXHIBIT B

AFFIDAVIT CONCERNING NONDISCRIMINATION

(See form attached)

(See also OPM Forms C, D, & E)

(See also Exhibit F - CHRO Notification to Bidders)

AFFIDAVIT CONCERNING NONDISCRIMINATION

This Affidavit must be completed and properly executed under penalty of false statement by a chief executive officer, president, chairperson, member or other corporate officer duly authorized to adopt company, corporate or partnership policy of the business entity submitting a bid/proposal/statement of qualifications to the Connecticut Port Authority that certifies such business entity complies with the nondiscrimination agreement and warranties contained in Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended, regarding nondiscrimination against persons on account of their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability, physical disability or sexual orientation.

I, the undersigned, am over the age of eighteen and understand and appreciate the obligation of an oath. I am _____ (title) of _____ (firm name), an entity duly formed and existing under the laws of _____ (name of state or commonwealth) ("Contractor").

I certify that I am authorized to execute and deliver this affidavit on behalf of Contractor, as follows:

1. Contractor seeks to enter into the "HARBOR DEVELOPMENT AGREEMENT" (the "Agreement") with the Connecticut Port Authority; and

2. Contractor has in place a company or corporate policy that complies with the nondiscrimination agreements and warranties required under Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended, and the said company or corporate policy is in effect as of the date hereof.

By (Signature): _____

Name (Print): _____

Title: _____

Sworn to before me this _____ day of _____ 20 ____

_____ _____

Notary Public/Commissioner of the Superior Court Commission Expiration Date

Sections 4a-60(a)(1) and 4a-60a(a)(1) of the Connecticut General Statutes follow.

Sec. 4a-60. (Formerly Sec. 4-114a). Nondiscrimination and affirmative action provisions in contracts of the state and political subdivisions other than municipalities.

Every contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions:

The Contractor agrees and warrants that in the performance of the contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved;

Sec. 4a-60a. Contracts of the state and political subdivisions, other than municipalities, to contain provisions re nondiscrimination on the basis of sexual orientation.

Every contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions:
The Contractor agrees and warrants that in the performance of the contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation;

EXHIBIT C

AFFIDAVIT CONCERNING CONSULTING FEES

(See form attached)

(See also OPM Ethics Form 5)

AFFIDAVIT CONCERNING CONSULTING FEES

Pursuant to Section 4a-81 of the Connecticut General Statutes, this Affidavit must be completed and properly executed under penalty of false statement by a chief official of the successful bidder/proposer/statement of qualifications submitter for an Agreement (the "Contractor"). Such chief official of the Contractor must be the person who is properly authorized to execute the Agreement on behalf of the Contractor. This Affidavit must be properly executed at the same time that the Contractor executes the Agreement. If the Contractor fails to execute this Affidavit, the Contractor shall be disqualified for the Agreement.

I, the undersigned, am over the age of eighteen and understand and appreciate the obligation of an oath.

I am _____ (title) of _____ (firm name), an entity duly formed and existing under the laws of _____ (name of state or commonwealth) ("Contractor").

I certify that I am authorized to execute and deliver this affidavit on behalf of Contractor, as follows:

Contractor seeks to enter into the HARBOR DEVELOPMENT AGREEMENT (the "Agreement") with the Connecticut Port Authority ("CPA");

Except as disclosed in Table 1 below and except for a consulting agreement that is with a contractor who is registered under the provisions of Chapter 10 of the Connecticut General Statutes[1] as of the date this Affidavit is submitted, Contractor has not entered into any consulting agreement[2] in connection with the Agreement whereby any duties of the contractor pursuant to said consulting agreement[2] require that contractor pursue communications concerning business of CPA, whether or not direct contact with CPA, a CPA official, a CPA employee, a state agency, a state or public official, or a state employee was expected or made;

Contractor shall amend this Affidavit whenever Contractor enters into any new consulting agreement[2] during the term of the Agreement; and

The statements set forth herein are true, to the best of my knowledge and belief, subject to the penalties of false statement.

[1] Pursuant to Section 1-94 of Chapter 10 the Connecticut General Statutes, a lobbyist as defined in the Chapter is required to register with the Office of State Ethics.

[2] Pursuant to Section 41-81 of the Connecticut General Statutes, for the purposes of this Affidavit, "consulting agreement" means "any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of (A) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the state, (B) contacting, whether in writing or orally, any executive, judicial, or administrative office of the state, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information, or (C) any other similar activity related to such contract. Consulting agreement does not include any agreements entered into with a consultant who is registered under the provisions of chapter 10 as of the date such affidavit is submitted in accordance with the provisions of this section."

TABLE 1: Disclosure of Consulting Agreements

(If Contractor has not entered into any consulting agreements[2] in connection with the Agreement, Contractor should enter "None" in the space provided for the "Name of Contractor.")

Name of Contractor:	
Name of Contractor's Firm:	
Description of the Basic Terms of the Consulting Agreement:	
Brief Description of the Services Provided:	

Is the Contractor a Former State Employee or Public Official?	Yes No

If the answer to the question above concerning whether or not the Contractor is a former state employee or public official is "Yes," the following information must be provided.

Name of Former Agency:	
Date Employment Terminated:	

By (Signature): _____

Name (Print):

Title:

Sworn to before me this _____ day of _____ 20 ____

_____ _____

Notary Public/Commissioner of the Superior Court Commission Expiration Date

EXHIBIT D

CONTRACTOR'S CERTIFICATION CONCERNING GIFTS

(See form attached)

(See also OPM Ethics Form 1)

CONTRACTOR'S CERTIFICATION
IFTS

Connecticut PORT AUTHORITY

Service Agreement

(This CERTIFICATION is to be signed by an authorized officer of the Contractor or the Contractor's managing general partner.)

Section 4-252 of the *Connecticut General Statutes* requires that a Contractor (i.e., the successful bidder/proposer/statement of qualifications submitter for an Agreement) complete and properly execute this Certification Concerning Gifts at the same time that the Contractor executes the Agreement. If the Contractor fails to make the required certifications, the Contractor shall be disqualified for the Agreement.

I,_____, a duly authorized officer and/or representative of _____(firm name) (the "Contractor"), being duly sworn, hereby depose and say that:

1. I am over eighteen (18) years of age and believe in the obligations of an oath; and

2. The Contractor has entered into the "HARBOR DEVELOPMENT AGREEMENT" (the "Agreement") to the Connecticut Port Authority ("CPA"), and has been selected by CPA as the successful bidder/proposer/SOQ submitter for the Agreement and is prepared to enter into the Agreement with CPA; and

3. No gifts were made between [***INSERT DATE OF RFP/PROPOSAL***] and the date of execution of the Agreement, by

   (a) The Contractor,

   (b) Any principals and key personnel of the Contractor who participated substantially in preparing the Contractor's bid/proposal/statement of qualifications for or the negotiation of the Agreement, or

   (c) Any agent of the Contractor or principals and key personnel who participated substantially in preparing the Contractor's bid/proposal/statement of qualifications for or the negotiation of the Agreement

to

   (1) Any public official or employee of CPA who participated substantially in the preparation of the bid/proposal/qualifications solicitation for or the negotiation or award of the Agreement (such CPA employees are listed in Table 2 below), or

   (2) Any public official or state employee of any state agency who has supervisory or appointing authority over CPA (such public officials and state employees are listed in Table 3 below); and

4. No such principals and key personnel of the Contractor or agent of the Contractor or principals and key personnel knows of any action by Contractor to circumvent the prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the Contractor to provide a gift to any such public official or state employee; and

5. The Contractor made the bid/proposal/statement of qualifications for the Agreement without fraud or collusion with any person;

The information set forth herein is true, to the best of my knowledge and belief, subject to the penalties of false statement.

TABLE 2: CPA Substantial Participants in the Preparation of the Request for Bids for the Agreement

David Kooris, Chairperson
Joseph Salvatore, Project Manager

TABLE 3: Public Officials and State Employees of State Agencies Who Have Supervisory or Appointing Authority over CPA

Governor Edward M. Lamont, Jr.
Senator Martin Looney, President Pro Tempore of the Senate
Representative Joe Aresimowicz, Speaker of the House of Representatives
Representative Themis Klarides, Minority Leader of the House of Representatives
Senator Bob Duff, Majority Leader of the Senate
Senator Len Fasano, Minority Leader of the Senate

Signature: _____
Name (type/print): _____
Title: _____
State Of: _____
County Of: _____

_____, being fully sworn, deposes and says that he/she is the _____(Title) of _____ (Firm Name), the Contractor herein, that he/she has read the foregoing statement concerning gifts, and, under the penalty of perjury, certifies that each and every part of said statement is true to his/her best knowledge and belief.

Sworn to before me this _____ day of _____ 20____

_____ _____
Notary Public/Commissioner of the Superior Court Commission Expiration Date

For the purposes of this Certification Concerning Gifts, the following terms are defined as follows:

"Gift" means anything of value, which is directly and personally received, unless consideration of equal or greater value is given in return. "Gift" shall **not** include:

A political contribution otherwise reported as required by law or a donation or payment as described in subdivision (9) or (10) of subSection (b) of Section 9-601a of the *Connecticut General Statutes*;

Services provided by persons volunteering their time, if provided to aid or promote the success or defeat of any political party, any candidate or candidates for public office or the position of convention delegate or town committee member or any referendum question;

A commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business;

A gift received from (A) an individual's spouse, fiance or fiancee, (B) the parent, brother or sister of such spouse or such individual, or (C) the child of such individual or the spouse of such child;

Goods or services (A) which are provided to a state agency or quasi-public agency (i) for use on state or quasi-public agency property, or (ii) that support an event , and (B) which facilitate state or quasi-public agency action or functions. As used in this Affidavit Concerning Gifts, "state property" means (i) property owned by the state or a quasi-public agency, or (ii) property leased to a state agency or quasi-public agency;

A certificate, plaque or other ceremonial award costing less than one hundred dollars;

A rebate, discount or promotional item available to the general public;

Printed or recorded informational material germane to state action or functions;

Food or beverage or both, costing less than fifty dollars in the aggregate per recipient in a calendar year, and consumed on an occasion or occasions at which the person paying, directly or indirectly, for the food or beverage, or his representative, is in attendance;

Food or beverage or both, costing less than fifty dollars per person and consumed at a publicly noticed legislative reception to which all members of the General Assembly are invited and which is hosted not more than once in any calendar year by a lobbyist or business organization. For the purposes of such limit, (A) a reception hosted by a lobbyist who is an individual shall be deemed to have also been hosted by the business organization which he owns or is employed by, and (B) a reception hosted by a business organization shall be deemed to have also been hosted by all owners and employees of the business organization who are lobbyists. In making the calculation for the purposes of such fifty-dollar limit, the donor shall divide the amount spent on food and beverage by the number of persons whom the donor reasonably expects to attend the reception;

Food or beverage or both, costing less than fifty dollars per person and consumed at a publicly noticed reception to which all members of the General Assembly from a region of the state are invited and which is hosted not more than once in any calendar year by a lobbyist or business organization. For the purposes of such limit, (A) a reception hosted by a lobbyist who is an individual shall be deemed to have also been hosted by the business organization which he owns or is employed by, and (B) a reception hosted by a business organization shall be deemed to have also been hosted by all owners and employees of the business organization who are lobbyists. In making the calculation for the purposes of such fifty-dollar limit, the donor shall divide the amount spent on food and beverage by the number of persons whom the donor reasonably expects to attend the reception. As used in this subdivision, "region of the state" means the established geographic service area of the organization hosting the reception;

Gifts costing less than one hundred dollars in the aggregate or food or beverage provided at a hospitality suite at a meeting or conference of an interstate legislative association, by a person who is not a registrant or is not doing business with the state of Connecticut;

Admission to a charitable or civic event, including food and beverage provided at such event, but excluding lodging or travel expenses, at which a public official or state employee participates in his official capacity, provided such admission is provided by the primary sponsoring entity;

Anything of value provided by an employer of (A) a public official, (B) a state employee, or (C) a spouse of a public official or state employee, to such official, employee or spouse, provided such benefits are customarily and ordinarily provided to others in similar circumstances; or

Anything having a value of not more than ten dollars, provided the aggregate value of all things provided by a donor to a recipient under this subdivision in any calendar year shall not exceed fifty dollars.

Training that is provided by a vendor for a product purchased by a state or quasi-public agency which is offered to all customers of such vendor; or

Travel expenses, lodging, food, beverage and other benefits customarily provided by a prospective employer, when provided to a student at a public institution of higher education whose employment is derived from such student's status as a student at such institution, in connection with bona fide employment discussions.

"Participated substantially" means participation that is direct, extensive and substantive, and not peripheral, clerical or ministerial.

"Principals and key personnel" means officers, directors, shareholders, members, partners and managerial employees.

EXHIBIT E

CHAIRPERSON'S CERTIFICATION CONCERNING GIFTS

(See form attached)

(See also OPM Ethics Form 3)

CHAIRPERSON'S CERTIFICATION CONCERNING GIFTS

This form must be completed and properly executed under penalty of false statement by a chief executive officer, president, chairperson, member or other corporate officer duly authorized to adopt company, corporate or partnership policy of the business entity submitting a bid/proposal/statement of qualifications to the Connecticut Port Authority.

HARBOR DEVELOPMENT AGREEMENT

Awarded To

[_____]

(This CERTIFICATION is to be signed by the CHAIRPERSON of CPA at the time the Harbor Development Agreement is executed by him)

By submission of this Certification, the Executive Director of the Connecticut Port Authority ("CPA") hereby certifies that the selection of the most qualified or highest ranked person, firm or corporation for the "Harbor Development Agreement" was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

Signature:_____

Name: **David Kooris**

Title: **Chairperson**

State Of: **Connecticut**

County Of: **Hartford**

David Kooris, being fully sworn, deposes and says that he is the Chairperson of the Connecticut Port Authority, that he has read the forgoing statement concerning collusion, the giving of gifts or the promise of gifts, compensation, fraud or inappropriate influence and, under the penalty of perjury, certifies that each and every part of said statement is true.

Sworn to before me this _____ day of _____ 20_____

Notary Public/Commissioner of the Superior Court

_____

EXHIBIT F

CHRO NOTIFICATION TO BIDDERS

(See CHRO Form attached)

COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
CONTRACT COMPLIANCE REGULATIONS
NOTIFICATION TO BIDDERS
(Revised 09/17/07)

The contract to be awarded is subject to contract compliance requirements mandated by Sections 4a-60 and 4a-60a of the Connecticut General Statutes; and, when the awarding agency is the State, Sections 46a-71(d) and 46a-81i(d) of the Connecticut General Statutes. There are Contract Compliance Regulations codified at Section 46a-68j-21 through 43 of the Regulations of Connecticut State Agencies, which establish a procedure for awarding all contracts covered by Sections 4a-60 and 46a-71(d) of the Connecticut General Statutes.

According to Section 46a-68j-30(9) of the Contract Compliance Regulations, every agency awarding a contract subject to the contract compliance requirements has an obligation to "aggressively solicit the participation of legitimate minority business enterprises as bidders, contractors, subcontractors and suppliers of materials." "Minority business enterprise" is defined in Section 4a-60 of the Connecticut General Statutes as a business wherein fifty-one percent or more of the capital stock, or assets belong to a person or persons: "(1) Who are active in daily affairs of the enterprise; (2) who have the power to direct the management and policies of the enterprise; and (3) who are members of a minority, as such term is defined in subsection (a) of Section 32-9n." "Minority" groups are defined in Section 32-9n of the Connecticut General Statutes as "(1) Black Americans . . . (2) Hispanic Americans . . . (3) persons who have origins in the Iberian Peninsula . . . (4)Women . . . (5) Asian Pacific Americans and Pacific Islanders; (6) American Indians . . ." An individual with a disability is also a minority business enterprise as provided by Section 4a-60g of the Connecticut General Statutes. The above definitions apply to the contract compliance requirements by virtue of Section 46a-68j-21(11) of the Contract Compliance Regulations.

The awarding agency will consider the following factors when reviewing the bidder's qualifications under the contract compliance requirements:

(a) the bidder's success in implementing an affirmative action plan;
(b) the bidder's success in developing an apprenticeship program complying with Sections 46a-68-1 to 46a-68-17 of the Administrative Regulations of Connecticut State Agencies, inclusive;
(c) the bidder's promise to develop and implement a successful affirmative action plan;
(d) the bidder's submission of employment statistics contained in the "Employment Information Form", indicating that the composition of its workforce is at or near parity when compared to the racial and sexual composition of the workforce in the relevant labor market area; and
(e) the bidder's promise to set aside a portion of the contract for legitimate minority business enterprises. See Section 46a-68j-30(10)(E) of the Contract Compliance Regulations.

INSTRUCTIONS AND OTHER INFORMATION

The following BIDDER CONTRACT COMPLIANCE MONITORING REPORT must be completed in full, signed, and submitted with the bid for this contract. The contract awarding agency and the Commission on Human Rights and Opportunities will use the information contained thereon to determine the bidders compliance to Sections 4a-60 and 4a-60a CONN. GEN. STAT., and Sections 46a-68j-23 of the Regulations of Connecticut State Agencies regarding equal employment opportunity, and the bidder's good faith efforts to include minority business enterprises as subcontractors and suppliers for the work of the contract.

1) Definition of Small Contractor

Section 4a-60g CONN. GEN. STAT. defines a small contractor as a company that has been doing business under the same management and control and has maintained its principal place of business in Connecticut for a one year period immediately prior to its application for certification under this section, had gross revenues not exceeding ten million dollars in the most recently completed fiscal year, and at least fifty-one percent of the ownership of which is held by a person or persons who are active in the daily affairs of the company, and have the power to direct the management and policies of the company, except that a nonprofit corporation shall be construed to be a small contractor if such nonprofit corporation meets the requirements of subparagraphs (A) and (B) of subdivision 4a-60g CONN. GEN. STAT.

MANAGEMENT: Managers plan, organize, direct, and control the major functions of an organization through subordinates who are at the managerial or supervisory level. They make policy decisions and set objectives for the company or departments. They are not usually directly involved in production or providing services. Examples include top executives, public relations managers, managers of operations specialties (such as financial, human resources, or purchasing managers), and construction and engineering managers.

BUSINESS AND FINANCIAL OPERATIONS: These occupations include managers and professionals who work with the financial aspects of the business. These occupations include accountants and auditors, purchasing agents, management analysts, labor relations specialists, and budget, credit, and financial analysts.

MARKETING AND SALES: Occupations related to the act or process of buying and selling products and/or services such as sales engineer, retail sales workers and sales representatives including wholesale.

LEGAL OCCUPATIONS: In-House Counsel who is charged with providing legal advice and services in regards to legal issues that may arise during the course of standard business practices. This category also includes assistive legal occupations such as paralegals, legal assistants.

COMPUTER SPECIALISTS: Professionals responsible for the computer operations within a company are grouped in this category. Examples of job titles in this category include computer programmers, software engineers, database administrators, computer scientists, systems analysts, and computer support specialists

ARCHITECTURE AND ENGINEERING: Occupations related to architecture, surveying, engineering, and drafting are included in this category. Some of the job titles in this category include electrical and electronic engineers, surveyors, architects, drafters, mechanical engineers, materials engineers, mapping technicians, and civil engineers.

OFFICE AND ADMINISTRATIVE SUPPORT: All clerical-type work is included in this category. These jobs involve the preparing, transcribing, and preserving of written communications and records; collecting accounts; gathering and distributing information; operating office machines and electronic data processing equipment; and distributing mail. Job titles listed in this category include telephone operators, bill and account collectors, customer service representatives, dispatchers, secretaries and administrative assistants, computer operators and clerks (such as payroll, shipping, stock, mail and file).

BUILDING AND GROUNDS CLEANING AND MAINTENANCE: This category includes occupations involving landscaping, housekeeping, and janitorial services. Job titles found in this category include supervisors of landscaping or housekeeping, janitors, maids, grounds maintenance workers, and pest control workers.

CONSTRUCTION AND EXTRACTION: This category includes construction trades and related occupations. Job titles found in this category include boilermakers, masons (all types), carpenters, construction laborers, electricians, plumbers (and related trades), roofers, sheet metal workers, elevator installers, hazardous materials removal workers, paperhangers, and painters. Paving, surfacing, and tamping equipment operators; drywall and ceiling tile installers; and carpet, floor and tile installers and finishers are also included in this category. First line supervisors, foremen, and helpers in these trades are also grouped in this category..

INSTALLATION, MAINTENANCE AND REPAIR: Occupations involving the installation, maintenance, and repair of equipment are included in this group. Examples of job titles found here are heating, ac, and refrigeration mechanics and installers; telecommunication line installers and repairers; heavy vehicle and mobile equipment service technicians and mechanics; small engine mechanics; security and fire alarm systems installers; electric/electronic repair, industrial, utility and transportation equipment; millwrights; riggers; and manufactured building and mobile home installers. First line supervisors, foremen, and helpers for these jobs are also included in the category.

MATERIAL MOVING WORKERS: The job titles included in this group are Crane and tower operators; dredge, excavating, and lading machine operators; hoist and winch operators; industrial truck and tractor operators; cleaners of vehicles and equipment; laborers and freight, stock, and material movers, hand; machine feeders and offbearers; packers and packagers, hand; pumping station operators; refuse and recyclable material collectors; and miscellaneous material moving workers.

PRODUCTION WORKERS: The job titles included in this category are chemical production machine setters, operators and tenders; crushing/grinding workers; cutting workers; inspectors, testers sorters, samplers, weighers; precious stone/metal workers; painting workers; cementing/gluing machine operators and tenders; etchers/engravers; molders, shapers and casters except for metal and plastic; and production workers.

3) Definition of Racial and Ethnic Terms (as used in Part IV Bidder Employment Information) (Page 3)

White (not of Hispanic Origin)- All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East. Black(not of Hispanic Origin)- All persons having origins in any of the Black racial groups of Africa. Hispanic- All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.	Asian or Pacific Islander- All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippine Islands, and Samoa. American Indian or Alaskan Native- All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

BIDDER CONTRACT COMPLIANCE MONITORING REPORT

PART I - Bidder Information

Company Name Street Address City & State Chief Executive	Bidder Federal Employer Identification Number_____ Or Social Security Number_____
Major Business Activity (brief description)	Bidder Identification (response optional/definitions on page 1) -Bidder is a small contractor. Yes__ No__ -Bidder is a minority business enterprise Yes__ No__ (If yes, check ownership category) Black___ Hispanic___ Asian American___ American Indian/Alaskan Native___ Iberian Peninsula___ Individual(s) with a Physical Disability___ Female___
Bidder Parent Company (If any)	- Bidder is certified as above by State of CT Yes__ No__
Other Locations in Ct. (If any)	

PART II - Bidder Nondiscrimination Policies and Procedures

1. Does your company have a written Affirmative Action/Equal Employment Opportunity statement posted on company bulletin boards? Yes__ No__	7. Do all of your company contracts and purchase orders contain non-discrimination statements as required by Sections 4a-60 & 4a-60a Conn. Gen. Stat.? Yes__ No__
2. Does your company have the state-mandated sexual harassment prevention in the workplace policy posted on company bulletin boards? Yes__ No__	8. Do you, upon request, provide reasonable accommodation to employees, or applicants for employment, who have physical or mental disability? Yes__ No__
3. Do you notify all recruitment sources in writing of your company's Affirmative Action/Equal Employment Opportunity employment policy? Yes__ No__	9. Does your company have a mandatory retirement age for all employees? Yes__ No__
4. Do your company advertisements contain a written statement that you are an Affirmative Action/Equal Opportunity Employer? Yes__ No__	10. If your company has 50 or more employees, have you provided at least two (2) hours of sexual harassment training to all of your supervisors? Yes__ No__ NA__
5. Do you notify the Ct. State Employment Service of all employment openings with your company? Yes__ No__	11. If your company has apprenticeship programs, do they meet the Affirmative Action/Equal Employment Opportunity requirements of the apprenticeship standards of the Ct. Dept. of Labor? Yes__ No__ NA__
6. Does your company have a collective bargaining agreement with workers? Yes__ No__ 6a. If yes, do the collective bargaining agreements contain non-discrim ination clauses covering all workers? Yes__ No__ 6b. Have you notified each union in writing of your commitments under the nondiscrimination requirements of contracts with the state of Ct? Yes__ No__	12. Does your company have a written affirmative action Plan? Yes__ No__ If no, please explain. 13. Is there a person in your company who is responsible for equal employment opportunity? Yes__ No__ If yes, give name and phone number. _____

Part III - Bidder Subcontracting Practices (Page 4)

1. Will the work of this contract include subcontractors or suppliers? Yes__ No__

1a. If yes, please list all subcontractors and suppliers and report if they are a small contractor and/or a minority business enterprise. (defined on page 1 / use additional sheet if necessary)

1b. Will the work of this contract require additional subcontractors or suppliers other than those identified in 1a. above? Yes__ No__

PART IV - Bidder Employment Information Date:

JOB CATEGORY *	OVERALL TOTALS	WHITE (not of Hispanic origin)		BLACK (not of Hispanic origin)		HISPANIC		ASIAN or PACIFIC ISLANDER		AMERICAN INDIAN or ALASKAN NATIVE	
		Male	Female	Male	Female	Male	Female	Male	Female	male	female
Management											
Business & Financial Ops											
Marketing & Sales											
Legal Occupations											
Computer Specialists											
Architecture/Engineering											
Office & Admin Support											
Bldg/ Grounds Cleaning/Maintenance											
Construction & Extraction											
Installation , Maintenance & Repair											
Material Moving Workers											
Production Occupations											
TOTALS ABOVE											
Total One Year Ago											
FORMAL ON THE JOB TRAINEES (ENTER FIGURES FOR THE SAME CATEGORIES AS ARE SHOWN ABOVE)											
Apprentices											
Trainees											

*NOTE: JOB CATEGORIES CAN BE CHANGED OR ADDED TO (EX. SALES CAN BE ADDED OR REPLACE A CATEGORY NOT USED IN YOUR COMPANY)

PART V - Bidder Hiring and Recruitment Practices (Page 5)

1. Which of the following recruitment sources are used by you? (Check yes or no, and report percent used)				2. Check (X) any of the below listed requirements that you use as a hiring qualification		3. Describe below any other practices or actions that you take which show that you hire, train, and promote employees without discrimination
SOURCE	YES	NO	% of applicants provided by source	(X)		
State Employment Service					Work Experience	
Private Employment Agencies					Ability to Speak or Write English	
Schools and Colleges					Written Tests	
Newspaper Advertisement					High School Diploma	
Walk Ins					College Degree	
Present Employees					Union Membership	
Labor Organizations					Personal Recommendation	
Minority/Community Organizations					Height or Weight	
Others (please identify)					Car Ownership	
					Arrest Record	
					Wage Garnishments	

Certification (Read this form and check your statements on it CAREFULLY before signing). I certify that the statements made by me on this BIDDER CONTRACT COMPLIANCE MONITORING REPORT are complete and true to the best of my knowledge and belief, and are made in good faith. I understand that if I knowingly make any misstatements of facts, I am subject to be declared in non-compliance with Section 4a-60, 4a-60a, and related sections of the CONN. GEN. STAT.

(Signature)	(Title)	(Date Signed)	(Telephone)

EXHIBIT G

IRAN CERTIFICATION FORM

(See form attached)

(See also OPM Iran Certification Form 7)]

IRAN CERTIFICATION FORM

This form must be completed and properly executed under penalty of false statement by a chief executive officer, president, chairperson, member or other corporate officer duly authorized to adopt company, corporate or partnership policy of the business entity submitting a bid/proposal/statement of qualifications to the Connecticut Port Authority.

I, _____(name), _____(title) of

_____(firm name, hereafter "Contractor") an entity duly formed and existing under

the laws of _____, being duly sworn, hereby depose that:

I am over the age of eighteen and understand and appreciate the obligations of an oath
Contractor seeks to enter into the "HARBOR DEVELOPMENT AGREEMENT" (the "Agreement") with the Connecticut Port Authority; and
Contractor hereby certifies as follows:

Section 1: APPLICABILITY

Check applicable box *(must be completed regardless of where the Contractor's principal place of business is located):*

Contractor's principal place of business is within the United States or Contractor is a United States subsidiary of a foreign corporation. **Contractors who check this box are not required to complete the Section 2: Certification portion of this form, but are still required to complete Section 3 of this form.**

Contractor's principal place of business is outside the United States and it is not a United States subsidiary of a foreign corporation. **Contractors who check this box are required to complete all sections of this form.**

Please complete this form as specified in this Section 1 and submit it with the RFB, RFP or RFQ response or contract package if there was no RFB, FRP, or RFQ process.

Additional definitions.

"Large state contract" has the same meaning as defined in Section 4–250 of the Connecticut General Statutes;
"Contractor" means the person whose name is set forth at the beginning of this form; and
"State agency" and "quasi-public agency" have the same meanings as provided in Section 1–79 of the Connecticut General Statutes.

Section 2: CERTIFICATION

Pursuant to P.A. No. 13-162, upon submission of a bid, or prior to executing a large state contract if no bid process was conducted, **the certification portion of this form must be completed** by any corporation, general partnership, limited partnership, limited liability partnership, joint venture, nonprofit organization or other business organization **whose principal place of business is located outside of**

the United States. United States subsidiaries of foreign corporations are exempt. For purposes of this form, a "foreign corporation" is one that is organized and incorporated outside the United States of America.

CERTIFICATION:

I, the undersigned, am the official authorized to execute contracts on behalf of the Contractor. I certify that:

Contractor has made no direct investments of twenty million dollars or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010.

Contractor has either made direct investments of twenty million dollars or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, or Contractor made such an investment prior to October 1, 2013 and has now increased or renewed such an investment on or after said date, or both.

Section 3: AFFIRMATION

Note: This Section 3 must be completed even if Section 2 of this form was not required based on the responses in Section 1 of this form.

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

_____ _____

Printed Contractor Name **Printed Name of Authorized Official**

_____

Signature of Authorized Official

Subscribed and acknowledged before me this _____ day of _____, 20_____.

_____

Commissioner of the Superior Court (or Notary Public)

EXHIBIT H

AFFIRMATION OF RECEIPT OF STATE ETHICS LAWS SUMMARY

(See OPM Ethics Form 6 attached)]

STATE OF CONNECTICUT

AFFIRMATION OF RECEIPT OF STATE ETHICS LAWS SUMMARY

Written or electronic affirmation to accompany a large State construction or procurement contract, having a cost of more than $500,000, pursuant to Connecticut General Statutes §§ 1-101mm and 1-101qq

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INSTRUCTIONS:

Complete all sections of the form. Submit completed form to the awarding State agency or contractor, as directed below.

CHECK ONE:

I am a person seeking a large State construction or procurement contract. I am submitting this affirmation to the awarding State agency with my bid or proposal. [Check this box if the contract will be awarded through a competitive process.]

I am a contractor who has been awarded a large State construction or procurement contract. I am submitting this affirmation to the awarding State agency at the time of contract execution. [Check this box if the contract was a sole source award.]

I am a subcontractor or consultant of a contractor who has been awarded a large State construction or procurement contract. I am submitting this affirmation to the contractor.

I am a contractor who has already filed an affirmation, but I am updating such affirmation either (i) no later than thirty (30) days after the effective date of any such change or (ii) upon the submittal of any new bid or proposal, whichever is earlier.

IMPORTANT NOTE:

Within fifteen (15) days after the request of such agency, institution or quasi-public agency for such affirmation contractors shall submit the affirmations of their subcontractors and consultants to the awarding State agency. Failure to submit such affirmations in a timely manner shall be cause for termination of the large State construction or procurement contract.

AFFIRMATION:

I, the undersigned person, contractor, subcontractor, consultant, or the duly authorized representative thereof, affirm (1) receipt of the summary of State ethics laws* developed by the Office of State Ethics pursuant to Connecticut General Statutes § 1-81b and (2) that key employees of such person, contractor, subcontractor, or consultant have read and understand the summary and agree to comply with its provisions.

* The summary of State ethics laws is available on the State of Connecticut's Office of State Ethics website.

_____ _____
Signature Date

_____ _____
Printed Name Title

_____
Firm or Corporation (if applicable)

_____ _____ ____ _____
Street Address City State Zip

_____
Awarding State Agency