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March 10, 2011

Subcontractor,

Attached are some provisions of the Colonna's Shipyard contract with the City of New York (Staten Island Ferries). Subcontractors performing any repair/system installation must also comply with these contractual provisions. Prior to Colonna's issuing a purchase order all subcontractors must review these provision and sign the appropriate block

- Article 5 Protection of Work, Persons and Property (Paragraphs A through G)
- Article 16 Money Retained Against Claims (Paragraphs A through D)
- Article 17 Warranty of Supplies
- Article 18 Maintenance and Guaranty (Para A through F)
- Article 46 Contractor's Warranties (Para A and B)
- Article 47 Claims and Actions Thereon (Para A through D)
- Article 48 Infringement (Para A through E)
- Article 49 No Claims Against Officers, Agents or Employees
- **Schedule A – Insurance Requirements (those boxes checked)**

A SIGNED LETTER MUST BE SUBMITTED TO GENE WEBB, SUBCONTRACTS,
gwebb@colonnaship.com, FAX 757-545-5476, 757-545-2414 ext 385 PRIOR TO
PURCHASE ORDER.

Richard Sobocinski
VP Contracts

A Full Facility Plant for Over 100 Years

SCHEDULE "A"

PIN No: 84108SIPT273

**For the Dry-Docking, Inspection, Maintenance, and Related Repairs of the
NYCDOT Large Passenger Ferries**

Bonding and Insurance Requirements		
Insurance certificates, policies and endorsements shall be sent to: Contract/Section, Office of the ACCO, 40 Worth Street, Room 824A, New York. NY 10013.		
Item	Reference	Requirements
Bid Security — OR —	Part A, Article 27	\$150,000
Bid Bond	Part A, Article 27 Refer to Part B, Page 8-9 for Bid Bond Form	\$750,000
Performance Security	Part A, Article 27 & Contract, Part D, Article 15	C1 Not Required 0 Required: 100% of Contract Price
Payment Security	Part A, Article 27 & Contract, Part D, Article 15	C1 Not Required • Required: 100% of Contract Price
Retainage	Part D, Contract, Article 14	10% of Each Payment - Retainage from each payment made for each vessel for which work is performed under this Contract shall be released upon the end of the Guaranty Period for each vessel referenced in this Schedule A. Payment to any Subcontractor or Materialman of such released retainage shall be made in accordance with Part D, Article 33 of this Contract.
Term of Completion	Part D. Contract, Article 6	Five (5) Years
Renewal	Part D. Contract, Article 7	One (1) Five Year Term
Liquidated Damages	Part C, Detailed Specifications and Scope of Work, Section 2.24 and Part D, Contract, Article 8	\$1,500.00 for each CCD for work not completed at Contractor's facility within time established for such work as set forth in Detailed Specifications, Special Requirements para. 2.19.3
Subcontracts	Part D, Contract, Article 11	Not-to-Exceed 50% of the ^{Total} Contract

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Item	Reference	Requirements
Insurance (Various)	Part D, Contract, Article 15	Coverages indicated By [X] will be required under the Contract
[X]	Workers' Compensation Including Longshoremen & Harbor Workers Act coverage.	Statutory (See Section B of Insurance General Conditions and Specifications)
\. [X]	Employers' Liability	\$500,000 Bodily Injury by Accident Each Accident \$500,000 Bodily Injury by Disease Each Accident \$500,000 Bodily Injury by Disease in the Aggregate (See Section C of Insurance General Conditions and Specifications)
) ⁴ [X]	Marine Employers Liability	\$1 million Per Occurrence (See Section D of Insurance General Conditions and Specifications)
[X]	General Liability Combined Single Limit — Bodily Injury and Property Damage Endorsed to include: 1. Ship Repairer's Legal Liability Insurance; and 2. Pollution-Sudden and Accidental Pollution Liability	\$1 million Per Occurrence \$2 million Aggregate/Policy Year (See Section E of Insurance General Conditions and Specifications.) (City of New York and New York City Department of Transportation Added as Additional Insureds) \$1 million Per Occurrence (See Section F of Insurance General Conditions and Specifications) \$1 million Per Occurrence (See Section G of Insurance General Conditions and Specifications)
[X]	Automobile Liability: Combined Single Limit — Bodily Injury and Property Damage	\$1 million Per Accident The following Coverage Must be Provided: [X] Comprehensive Form [X] Hired, [X] Owned, [X] Non-Owned (See Section H of the Insurance General Conditions and Specifications.) (City of New York and New York City Department of Transportation Added as Additional Insureds)
[X]	Unemployment Insurance	Statutory (See Section I of Insurance General Conditions and Specifications)
[]	Professional Liability Insurance	\$1 million Per Occurrence (See Section J of Insurance General Conditions and Specifications)

Bonding and Insurance Requirements		
Insurance certificates, policies and endorsements shall be sent to: Contract/Section, Office of the ACCO, 40 Worth Street, Room 824A, New York, NY 10013.		
Item	Reference	Requirements
[]	Passenger Elevator Insurance	\$1 million Per Occurrence (See Section K of Insurance General Conditions and Specifications)
	Garage Keepers' Liability Insurance	\$ Per Occurrence Section L of Insurance General Conditions and Specifications)
[]	Crime Insurance	\$100,000 Including Employee Dishonesty Per Occurrence (See Section M of Insurance General Conditions and Specifications)
[]	All Risk Liability Insurance for Armored Car Contracts	\$5 million Per Occurrence (See Section N of Insurance General Conditions and Specifications)
[]	Personal Property of the City	\$20,000 (See Section O of Insurance General Conditions and Specifications)
[X]	As respects owned or sub-contracted vessels Protection and Indemnity including Crew, Towers and Collision Liability, Coverage as per Form SP-23	\$1 million per Occurrence (See Item 314 of Detail Specifications and Section P of the Insurance General Conditions and Specifications)
[X]	Marine Pollution Liability as per WQIS Blue Yard Policy or its equivalent	\$1 million Limit (See Section Q of Insurance General Conditions and Specifications)
[X]	Umbrella or Bumbershoot Liability	\$25 million Limit (See Section R of Insurance General Conditions and Specifications)
Guaranty Period	Ninety Days from the Date of Final Acceptances	See Part D, Article 18

All of the aforementioned coverages shall be Primary and Non-Contributory with the exception of Umbrella or Bumbershoot.

INSURANCE—GENERAL CONDITIONS AND SPECIFICATIONS

- A. Required Insurance Coverage:** Before performing any work on the Contract, the Contractor shall procure and maintain for the duration of the Contract, insurance against any claims for injuries to persons or damage to property which may arise from .or in connection with the performance of the Work in this Contract by the Contractor, its agents, representatives, employees or Subcontractors. The Contractor shall procure the required insurance from companies licensed and authorized by the New York State

Department of Insurance to do business in New York State and/or the state in which the work required under this Contract is performed and with a Best's rating of A-7 or better. Unless otherwise specified there is no separate bid or proposal item for insurance costs.

B. **Workers' Compensation Insurance:** Before performing any work on this Contract, the Contractor and each Subcontractor shall provide Workers' Compensation Insurance, in accordance with the Laws of the State of New York and/or the state(s) within which Contractor performs the work required under the Contract and the United States Longshoremens' and Harbor Workers' Act where applicable, including a waiver of subrogation in favor of the City of New York and the Department of Transportation (DOT), on behalf of all employees providing services under this Contract. Two (2) certificates evidencing such insurance or authority for self-insurance shall be furnished to the Department.

C. **Employer's Liability Insurance:** Before performing any work on this Contract, the Contractor shall procure Employer's Liability Insurance, including a waiver of subrogation in favor of the City of New York and the Department of Transportation, in an amount of at least as much as required in Schedule A, providing compensation for bodily injury by accident or disease sustained by any employee of the Contractor arising out of and in the course of his/her employment by the Contractor. Two (2) certificates evidencing such insurance or authority for self-insurance shall be furnished to the Department.

D. **Marine Employer's Liability: (If applicable-See Section P - PSI)** Before performing any work on this Contract, the Contractor shall procure Marine Employers Liability insurance including a waiver of subrogation in favor of the City of New York and the Department of Transportation,

E. **General Liability Insurance:** Before performing any work on this Contract, the Contractor shall procure General Liability Insurance in the Contractor's name and adding the City of New York and the Department of Transportation as additional insureds, including a waiver of subrogation in favor of the City of New York and the Department of Transportation, hereunder **and** endorsed to cover the liability assumed by the Contractor under the indemnity provisions of this Contract. This insurance policy shall be maintained during the term of this Contract and shall protect the City of New York, the

Contractor and/or its Subcontractors performing Work under this Contract from claims for property damage and/or bodily injury, including death which may arise from operations under this Contract, whether such operations are performed by the Contractor or anyone directly or indirectly employed by the Contractor. The Coverage provided shall not be less than provided for in Schedule A. The Coverage provided hereunder must be "occurrence" based; "claims-made" coverage will not be accepted.

F. Ship Repairer's Legal Liability Insurance: With respect to the General Liability coverage required by Schedule A, the policy providing such coverage shall include, or be endorsed to include, Ship Repairer's Legal Liability Coverage, which shall include legal liability arising from navigation of the vessels prior to delivery and acceptance by the City. **The** Contractor will ensure that any exclusion in its General Liability policy excluding Ship Repairer's Legal Liability risks or other marine risks shall be deleted by endorsement with respect to this Contract prior to commencement of any Work and an appropriate endorsement specifically providing such coverage added. Such insurance shall cover all operations by or on behalf of the Contractor arising from ship repairer's and marine risks, including all operations by any subcontractor involved in the Work. Such insurance shall cover: bodily injury and property damage liability, including coverage for premises and operations; products **and completed operations;** **contractual** liability; broad form property damage, including property in the Contractor's care, custody and control; and personal injury liability.

The City of New York and DOT shall be added as additional insured under this coverage including a waiver of subrogation in favor of the City of New York and the Department of Transportation,.

G. Pollution — Sudden and Accidental Pollution Liability: With respect to the General Liability coverage required by Schedule A, the policy providing such coverage shall include, or **be endorsed** to include, Pollution, Sudden and Accidental liability coverage which will indemnify the Contractor and the City of New York and the Department of Transportation. The City of New York and DOT shall be added as additional insured under this coverage including a waiver of subrogation in favor of the City of **New** York and the Department of Transportation.

H. **Automobile Liability Insurance:** Before performing any work on this Contract, the Contractor shall procure commercial auto liability insurance covering all owned, non-owned, hired and borrowed, vehicles to be used in connection with this Contract. The City of New York and the Department of Transportation shall be added as additional insureds. Coverage provided shall not be less than provided for in Schedule A.

I. **Unemployment Insurance** — Before performing any work on this Contract, Unemployment Insurance coverage shall be obtained and provided by the Contractor for its employees.

J. **Professional Liability Insurance — (if required):** Before performing any work on this Contract, the Contractor shall procure Professional Liability Insurance covering as insured the Contractor. All Subcontractors to the Contractor providing professional services under this Contract shall, also provide evidence of Professional Liability Insurance to the Commissioner at limits appropriate to the exposures of the Subcontractor's work, with deductibles suitable for the financial capacity of the Subcontractor and through carriers and on forms acceptable to the City.

K. **Passenger Elevator Insurance - (if required):** The Contractor shall procure Passenger Elevator Insurance to protect the City against claims arising from the operations of the Contractor and its employees. The City of New York and the Department of Transportation shall be added as additional insureds (*may be covered under General Liability Policy*).

L. **Garagekeepers' Legal Liability - (if required):** The Contractor shall procure Garagekeepers' Legal Liability Insurance, if required, for the benefit of the City of New York and the Department of Transportation and the Operator respectively, as named insureds, to protect the City and the Operator against claims, liabilities, losses or suits. Such insurance coverage shall include, but not be limited to:

- (i) Fire and/or explosion.
- (ii) Theft (*of an entire car*).
- (iii) Riot and civil commotion and malicious mischief.

- M.** **Crime Insurance - (if required):** Including employee dishonesty.
- N.** **All Risk Liability Insurance for Armored Car Contract - (if required):** Before commencing operations under this Contract, the armored transport company shall provide the required certificate of insurance and such other documentation as may be necessary to demonstrate the existence of insurance on all "risk" basis for destruction, disappearance and wrongful abstraction of monies and securities transported in accordance with the terms and conditions of this Contract continuously from the time monies and securities are conveyed to *the* Contractor until conveyed to the designated bank for deposit. Coverages afforded include fraudulent, dishonest and criminal acts by the armored transport company's employees, partners, officers, and directors and the "off premises" coverage shall not exclude conveyance on the City streets and sidewalks.
- O.** **Personal Property - (if required):** Before performing any Contract Work, the Contractor shall procure and maintain an all risk policy covering materials and equipment used in the Contract against loss, damage or destruction from any cause while such property is in the custody of the Contractor, or any of its Subcontractors, which policy shall name the City of New York as the party of interest.
- P.** **Protection and Indemnity Insurance** : The Contractor shall provide a Protection and Indemnity Policy including Crew, Collision and Towers Liability Insurance with coverage, at least as broad as the SP-23 Form, in the Contractor's name and adding the City of New York and the Department of Transportation as additional insureds, including a waiver of subrogation in favor of the City of New York and the Department of Transportation.
- Q.** **Marine Pollution Liability Insurance:** The Contractor shall provide a Marine Pollution Liability Insurance policy covering itself as Named Insured and the City of New York and the Department of Transportation (together with its officials and employees) as Additional Insured, including a waiver of subrogation in favor of the City of New York and the Department of Transportation for liability arising from the discharge or threat of a discharge of oil, or from the release or threatened release of a hazardous substance including injury to, or economic losses resulting from, the destruction of or damage to real property, personal property or natural resources, or for any sum(s) paid. Said policy

shall insure the Contractor, the City of New York and the Department of Transportation against liability with respect to loss, damage, cost, liability expense, including legal costs, and fines or penalties, whether statutory or otherwise, incurred by or imposed on the Contractor or the City of New York or The Department of Transportation, directly or indirectly, in consequence of, or with respect to, the actual or potential discharge, emission, spillage or leakage upon or into the seas, waters, land or air, of oil, petroleum products, chemicals or other substances of any kind or nature whatsoever. Coverage under this policy shall be at least as broad as that provided by Water Quality Insurance Syndicate Blue Yard Policy or its equivalent. This policy on Marine Pollution Liability Insurance is primary to any pollution liability insurance required under this contract.

R. Umbrella or Bumbershoot Liability-The contractor shall provide umbrella or bumbershoot liability insurance as required by Schedule A, naming the Contractor and adding the City of New York and the Department of Transportation as additional insureds, including a waiver of subrogation in favor of the City of New York and the Department of Transportation, **The umbrella or bumbershoot policy will be scheduled** excess of primary policies, including General Liability, Employer's Liability, Marine Employer's Liability, Auto, Protection & Indemnity and Marine Pollution Liability.

S. General Requirements for Insurance Policies:

1. All required insurance policies shall be maintained with companies licensed and authorized to do business in the State of New York by the New York State Department of Insurance.
2. The Contractor shall be solely responsible for the payment of all premiums for all required policies and all deductibles to which **such** policies are subject, **whether** or not the City is an insured under the policy.
3. All Insurance policies provided shall include, without limitation, the following endorsements/requirements:

- (a) The City, together with its officials and employees, as an Additional Insured under this policy (except Workers Compensation, Employers Liability and Marine Employers Liability); and
- (b) Notice under the Policy to the City as Additional Insured shall be addressed to each of the following: (1) the Commissioner, 40 Worth Street, Room 1005, New York, N.Y. 10013; and (2) Comptrollers Office, attn: Office of Contract Administration, Municipal Building, 1 Centre Street, Room 835, New York, NY 10007; and
- (c) Notwithstanding any provision of this policy to the contrary, notice by or on behalf of the City as Additional Insured of any occurrence, offense, or claim, if such notice is required, will be deemed timely if given to the Insurance Company as soon as practicable after a Notice of Claim adequately specifying the occurrence, offense, or claim as one potentially covered under the policy has been filed with the Comptroller; however, in no event shall notice be deemed untimely so long as it is given within one hundred eighty (180) days of the filing of the Notice of Claim; and
- (d) Any notice, demand or other writing by or on behalf of the Contractor to the Insurance Company relating to any occurrence, offense, claim or suit shall also be deemed to be a notice, demand, or other writing on behalf of the City as Additional Insured, and any response thereto on behalf of the Insurance Company shall be sent to the Contractor, to the City at New York City Law Department, Insurance Law Unit, Affirmative Litigation Division, 100 Church Street, New York, NY 10007, and to the Comptroller at Insurance Unit, NYC Comptroller's Office, 1 Centre Street, Room 1222, New York, NY 10007; and
- (e) Notice of Cancellation of Policy: This policy shall not be cancelled, terminated, modified or changed by the Insurance Company unless thirty (30) days' prior written notice is sent to the Named Insured by Registered Mail and also sent to the Commissioner and to the Comptroller's Office, attn: Office of Contract Administration, Municipal Building, Room 835, New York, NY 10007, *and*

- (f) It is agreed that the Insurance Company, in the event of any payment under these policies, will waive its rights of recovery, if any, against the City; and
- (g) The Insurance required for this Contract must be on forms acceptable to the City and offered by Insurers that may lawfully issue the required policy and have an A.M. Best rating of at least A-7 or a Standard and Poor's rating of at least AA, unless prior written approval is obtained from the Mayor's Office of Operations; and
- (h) Where circumstances warrant, the Commissioner may, at his discretion and subject to acceptance by the Law Department and/or the Office of the Comptroller, accept letters of credit or custodial accounts in lieu of specific insurance requirements; and
- (i) Claims-made policies will be accepted for only professional liability and such other risks as are authorized by the New York State Insurance Department. All such policies shall have an extended reporting period option or automatic coverage of not less than two (2) years. If provided as an option, the Contractor agrees to purchase the extended reporting period on cancellation or termination unless a new policy is effected with a retroactive date, including at least the last policy year; and

The policies shall contain no exclusions or endorsements which are not acceptable to the City; and

- (k) Should the policies providing for any of the Insurance coverage required by the Contract expire during the Contract term, certificates confirming renewal of such insurance coverage shall be presented to the Commissioner not less than thirty (30) days prior to the expiration date of coverage. In addition, a copy of the actual renewal policy, with all endorsements, shall be provided to the Commissioner no later than thirty (30) days after the expiration of the policy previously provided to the

Commissioner. Failure to provide any renewal policy shall be grounds to suspend payments to the Contractor; and

Submission of Insurance Certificates and Policies. For all insurance coverage required under the Contract, two (2) certificates of such insurance shall be furnished to the Commissioner not later than twenty (20) days after receipt of Notice of Award, unless otherwise directed by the Commissioner. Such certificates shall certify insurance coverage in all ways in conformance with Part E of the Contract and shall include the following text: "The above-named insurance broker/producer and/or agent represents and warrants to the City that the City is an Additional Insured under the insurance policies required by Schedule A and that such policies are in full compliance with the Contract including Schedule A." In addition, with respect to all insurance coverage required by the Contract, with the exception of Workers' Compensation and Employer's Liability Insurance, two (2) executed copies of the insurance policies shall be provided to the Commissioner as soon as is practicable, but in no event later than thirty (30) days after the commencement of Work. No Contract payments will be accepted for processing until such policies are received and approved, and failure to provide the required policies shall be grounds for declaring the Contractor in default.

T. Materiality/Non-Waiver. The Contractor's failure to secure a policy(ies) in complete conformity with this article, or to give the Insurance Company timely notice of an occurrence, offense, claim or suit on behalf of the City, shall constitute a material breach of this Contract. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time.

U. Operations at the Site:

1. In the event that any of the required insurance policies lapse, are revoked, suspended or otherwise terminated, for whatever cause, the Contractor shall immediately stop all work at the site, and shall not recommence work at the site until authorized in writing to do so by the Commissioner. Upon quitting the site, the Contractor shall leave all plant, materials, equipment, tools and supplies on the site. Contract time shall continue to run during such periods and no

extensions of time will be granted. Furthermore, the Commissioner may declare the Contractor in default for failure to maintain required insurance.

2. The Contractor shall promptly notify the Commissioner of any accidents or incidents causing bodily injury, or property damage arising in the course of operations under the Contract.

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