

## OTHER AGENCIES

### (a)

#### NEW JERSEY TURNPIKE AUTHORITY

#### New Jersey Turnpike Authority Rules

#### Readoption with Amendments: N.J.A.C. 19:9

#### Proposed Repeals: N.J.A.C. 19:9-2.4 and 19:9

#### Appendix A

Authority: N.J.S.A. 27:23-5.s.

Authorized By: New Jersey Turnpike Authority Board of Commissioners, James D. Carone, Executive Director.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2024-025.

Submit written comments by May 3, 2024, to:

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#### Summary

The New Jersey Turnpike Authority (Authority) is proposing to readopt its rules governing Authority operations at N.J.A.C. 19:9. In accordance with N.J.S.A. 52:14B-5.1, these rules were scheduled to expire on August 24, 2024. However, as the Authority filed this notice of readoption with the Office of Administrative Law prior to that date, the expiration date is extended 180 days to February 20, 2025, pursuant to N.J.S.A. 52:14B-5.1.c. These rules have served, over an extended period of time, in the regulation of Authority operations, including, but not limited to, its operation of the New Jersey Turnpike and the Garden State Parkway (collectively, "Roadway") and the Arts Center, in such areas as administration, tolls, maintenance, transportation, public safety, and procurement. The rules are necessary in that they relate directly to the provision of safe, adequate, and proper facilities for use by the public.

The substantive provisions of the rules proposed to be readopted by the Board of Commissioners (the Board) are summarized below. It should be noted that, throughout the chapter, minor clarifying and/or technical amendments are proposed that do not change the meaning of the text (and are not discussed further).

#### Subchapter 1. Traffic Control On, and Use of, New Jersey Turnpike Authority Property

N.J.A.C. 19:9-1.1 lists a number of defined terms that are utilized throughout the chapter. Specifically, the definition of "bicycle" is replaced for consistency with Title 39, New Jersey Motor Vehicles and Traffic Laws, at N.J.S.A. 39:4-14.5 and 39:1-1, respectively. Specifically, the definition of "bicycle" is expanded to include two- or three-wheeled vehicles, with or without a motor, having a rear drive wheel that is solely human-powered and having a seat height of 26 inches or greater when the rider sits in the lowest adjustable position, or of any seat height when the rider sits in a reclined position with the feet extended forward to the pedals. The Authority has also evaluated current prohibited uses on the Roadway, at N.J.A.C. 19:9-1.13, and recognizes a need to prohibit the use of drones on or above the Roadway and/or all other property owned by the Authority, unless specifically authorized by the Authority. As such, N.J.A.C. 19:9-1.1 is amended to include a definition of "drone." N.J.A.C. 19:9-1.1 is amended to delete "Interstate 95 Extension." While this portion of Interstate Highway 95 was previously maintained by the New Jersey Department of Transportation and transferred to the Authority pursuant to N.J.S.A. 27:23-23.7, beginning at Turnpike milepost 117.9 and thence in a general northerly direction to milepost 122.0, such transfer has been successfully completed and fully incorporated into the Roadway owned and operated by the Authority. N.J.A.C. 19:9-1.1 is amended to delete definitions for "Parkway Right-of-Way" and "Turnpike Right-of-Way," as these phrases are self-evident and not referenced elsewhere in the Authority's rules.

N.J.A.C. 19:9-1.2(b) is amended to eliminate the designated speed limit between mileposts 27.0 and 29.0, and between mileposts 126.7 and 127.7, as the speed limit is now the maximum rate of speed allowable on the Parkway.

N.J.A.C. 19:9-1.6(f) is amended to limit bus parking at designated facilities for no longer than eight consecutive hours and to authorize the use of electrification. This amendment is meant to ensure that buses, like all trucks and other vehicles, are not idling, parking, or standing on any roadways, except in areas where those actions are authorized by the Authority.

N.J.A.C. 19:9-1.9(a) is amended to remove an exception for the "Interstate 95 Extension," in accordance with amendments at N.J.A.C. 19:9-1.1.

N.J.A.C. 19:9-1.12(f) is amended to reflect the Authority's ability to recover costs pursuant to N.J.A.C. 19:9-1.12, not just subsection (f), as the rule previously stated.

N.J.A.C. 19:9-1.13 is amended to prohibit certain conduct on any Authority property, in addition to the Roadway. The section is further amended to prohibit building, construction, or installation of a structure or building, installation or construction of a fence, and planting or installation of trees or plants on any Authority property or the Roadway. This section is further amended to prohibit the use of a drone over the Roadway, unless authorized.

N.J.A.C. 19:9-1.15 and 1.16 are amended in response to substantive comments received by the Authority during a recent rulemaking, including adjustments to rules regarding the transportation of hazardous materials, intoxicating substances, and tolls on the Roadway. The proposed changes ensure a safe environment for persons using the Roadway and to better encompass changes in technology, transportation, and State policies. N.J.A.C. 19:9-1.15(f)5 is amended to include soil and/or groundwater disposal manifests in the definition of investigatory data to allow for the Authority to better assess the impact caused by any discharge from the transportation of hazardous materials. The paragraph is also amended to require review and inspection of investigatory data by the Authority prior to any submission to any regulatory agency.

N.J.A.C. 19:9-1.16 is amended to include a prohibition on consumption of cannabis, in addition to the existing prohibition on consumption of intoxicating beverages.

N.J.A.C. 19:9-1.30 is amended to include "paper or electronic" tickets to reflect the use of electronic ticket technology for events. In addition, the section is amended to allow for possession of documented service animals on the Arts Center premises.

#### Subchapter 2. Purchasing and Contracting

Subchapter 2 governs procurement and contracting. The various sections are amended to reflect terms and procedures that have evolved since the Authority's last readoption, as well as to reflect changes in law and modern practices. The changes are summarized as follows:

N.J.A.C. 19:9-2.1 covers general provisions of Authority purchasing and contracting and is amended to update the types of solicitations issued by the Authority and language regarding electronic bidding to be applied throughout Subchapter 2.

N.J.A.C. 19:9-2.2 is amended to implement changes referenced at N.J.A.C. 19:9-2.1 and to streamline the process for solicitation, receipt, opening, and award of certain solicitations. This section is also amended to reflect existing law and procedure as to procurement without competitive sealed proposals.

N.J.A.C. 19:9-2.3 is amended to implement changes referenced at N.J.A.C. 19:9-2.1 and to streamline the process for contracts under the applicable bid threshold.

N.J.A.C. 19:9-2.4, covering termination of contracts, is proposed for repeal as the section is superfluous.

N.J.A.C. 19:9-2.6 is amended to implement changes referenced at N.J.A.C. 19:9-2.1, to require notice of a reserve or minimum price in surplus property auctions, to permit a certified check to be utilized, and to implement minor clarifying and/or technical amendments that do not change the meaning of the text.

N.J.A.C. 19:9-2.7 is amended to update and streamline the procedures for prequalification of bidders on construction contracts. N.J.A.C. 19:9-2.7 is further amended to revise the specified classification ratings for

contractors. Additionally, the section is amended to reflect the proper names of forms and documents required or promulgated by the Authority.

Similar to the proposed amendments at N.J.A.C. 19:9-2.7, N.J.A.C. 19:9-2.8 is amended to update and streamline the procedures for prequalification of proposers, including the evaluation process and the additional forms and documents required or promulgated by the Authority. Subsection (b) is amended to define the terms: "order for professional services" and "qualified firm."

N.J.A.C. 19:9-2.9 is amended to include disabled veteran-owned businesses.

N.J.A.C. 19:9-2.13 is amended to specify the scope of towing services on the Roadway.

### Subchapter 3. Fees

The Authority proposes to amend its rules at N.J.A.C. 19:9-3.1 and 3.2 in response to regular surveying of comparable, regional toll roads, and substantive comments received during a recent rulemaking that culminated in modest adjustments, effective August 1, 2022 and March 20, 2023, to the fees that may be charged by service providers for towing services and road services on the Roadway. See 54 N.J.R. 1556(b); 55 N.J.R. 556(c). Pursuant to the Authority's enabling legislation, N.J.S.A. 27:23-5.s, the Authority has the power to adopt rules to "fix maximum towing and storage fees" for towing and storage services on the Roadway. These proposed changes, coupled with recent changes in 2022 and 2023, affect gradual changes after the Authority adjusted rates five years prior and rates had remained unchanged for almost 13 years.

The Authority is committed to public safety and prioritizes exceeding national averages for incident response and clearance. Reliable and professional towing and recovery services are an indispensable facet of these goals. The towing industry continues to experience discernible increases in overhead costs, including insurance, fuel, equipment, storage, real estate, and taxes. Further, the industry has struggled to maintain an experienced labor force due to external market forces and demand from other transportation sectors. Nominal increases in towing rates and fees ensure that a qualified pool of towing service providers remains available to perform critical incident response and clearance operations to meet the Authority's requirements and expectations.

Overall, increased costs for suppliers, cost adjustments to conform to comparable, regional toll roads, and the Authority's duty to ensure a qualified pool of service providers remains available to assist drivers on the Roadway all support additional adjustments to rates.

The current rates at N.J.A.C. 19:9-3.1(a)1 provide for a maximum service charge of \$116.50 for towing services for Class 1 vehicles (under 7,000 pounds Gross Vehicle Weight Rating (G.V.W.R.), generally, "Passenger Vehicles") and a per mile charge of \$4.25, with the total maximum fee for Class 1 vehicles, including the service charge, being \$159.00. The Authority has determined that an increase to these rates is warranted for the reasons set forth above. Therefore, the maximum service charge for towing services for Class 1 vehicles shall be increased from \$116.50 to \$125.75, and the per mile charge shall be increased from \$4.25 to \$4.50, resulting in an increase in the total maximum fee for Class 1 vehicles, including the service charge, from \$159.00 to \$170.75.

The current rates at N.J.A.C. 19:9-3.1(a)2i set forth a maximum service charge for towing services for Class 2 vehicles (7,000 pounds and over G.V.W.R.; for example, straight truck or passenger vehicle with trailer) of \$214.00, and a per-mile charge of \$4.75, resulting in a total maximum fee for Class 2 vehicles, including the service charge, of \$261.50. The Authority has determined that an increase to these rates is warranted for the reasons set forth above. Therefore, the maximum service charge for towing services for Class 2 vehicles shall be increased from \$214.00 to \$231.00 and the per-mile charge increased from \$4.75 to \$5.00, resulting in an increase in the total maximum fee for Class 2 vehicles, including the service charge, from \$261.50 to \$281.00.

The current rates at N.J.A.C. 19:9-3.1(a)2ii set forth a maximum service charge for towing services for Class 3 vehicles (generally, over 15,000 pounds G.V.W.R.) of \$405.00, and a per-mile charge of \$6.00, resulting in a total maximum fee for Class 3 vehicles, including the service charge, of \$465.00. The Authority has determined that an increase to these rates is warranted for the reasons set forth above. Therefore, the maximum service charge for towing services for Class 3 vehicles shall be increased

from \$405.00 to \$437.00, and the per-mile charge shall be unchanged at \$6.00, resulting in an increase in the total maximum fee for Class 3 vehicles, including the service charge, from \$465.00 to \$497.00.

The current rates at N.J.A.C. 19:9-3.1(a)2iii set forth fees for services to Class 2 or Class 3 vehicles of \$41.00 for connecting air lines and \$41.00 for connecting lights; \$73.50 for disconnecting a drive shaft on all trucks; \$65.00 per axle for removing an axle; and \$73.50 for removing an air scoop. The Authority has determined that an increase is warranted for the reasons set forth above. Therefore, fees for services to Class 2 or Class 3 vehicles shall be increased from \$41.00 to \$50.00 for connecting air lines and from \$41.00 to \$50.00 for connecting lights. The fees for disconnecting a drive shaft on all trucks (\$73.50), removing an axle (\$65.00), and removing an air scoop (\$73.50) shall remain unchanged.

The current rates at N.J.A.C. 19:9-3.1(a)3 set forth winching and wrecking fees of \$151.00 per hour for a light wrecker, and \$246.00 per hour for a heavy wrecker. The Authority has determined that an increase is warranted for the reasons set forth above and to conform with current market rates. Therefore, fees for winching and wrecking at N.J.A.C. 19:9-3.1(a)3 will be increased from \$151.00 to \$300.00 per hour for a light and medium wrecker and from \$246.00 to \$255.00 per hour for a heavy wrecker.

The current rates at N.J.A.C. 19:9-3.1(a)4 set forth hourly rates for specialized equipment for routine towing services, including: (i) \$438.00 per hour for equipment, including, but not limited to, Oshkosh box trailer with tractor; and (ii) \$788.00 per hour for Rotator 60-ton capacity and up, and for a 50-ton construction crane. The Authority has determined, for the reasons set forth above, to increase from \$788.00 to \$1,095, the per-hour charge for a Rotator 60-ton capacity and up. The paragraph is further amended to eliminate the charge for a 50-ton construction crane.

The current rates at N.J.A.C. 19:9-3.1(a)5 set forth hourly rates covering various equipment listed for extra heavy-duty towing and recovery services, including: (i) \$788.00 per hour for a 60-ton rotator; and (ii) \$788.00 per hour for 50-ton construction crane. The current rates also set labor rates as follows: (i) \$162.00 per hour for supervisor (Wreck Master); (ii) \$108.00 per hour for tech labor; and (iii) \$81.00 per hour for manual labor. To conform with the proposed amendment at N.J.A.C. 19:9-3.1(a)4, the current rate for a 60-ton rotator shall be increased from \$788.00 to \$1,095 per hour, and the current rate for a 50-ton construction crane shall be eliminated. Additionally, for the reasons stated above, the Authority has determined to increase labor rates as follows: from \$162.00 to \$225.00 per hour for supervisor (Wreck Master) and limit this charge to one supervisor per incident; from \$108.00 to \$125.00 per hour for tech labor; and from \$81.00 to \$100.00 per hour for manual labor.

The current rates at N.J.A.C. 19:9-3.1(b) set forth storage rates charged by Authority-authorized companies, including free storage of 12 hours for all vehicles. The Authority has determined to add N.J.A.C. 19:9-3.1(b)4 to establish storage rates for cargo, crash debris, load storage, or vehicle components of \$43.00 per 10-foot by 20-foot space per calendar day.

The current rates at N.J.A.C. 19:9-3.2(a)1, road service rates governing Class 1 vehicles on the New Jersey Turnpike, set forth a service charge of \$81.00. The current rates at N.J.A.C. 19:9-3.2(a)7, for tire repair/replacement services for trucks and buses on the New Jersey Turnpike, set forth a maximum service charge of \$168.00, and maximum labor rate of \$101.00 per hour. The charge for an additional tire change on the New Jersey Turnpike is \$33.50 for each tire change beyond the first tire change. The Authority has determined that an increase to these rates is warranted for the reasons set forth above. Therefore, road service rates at N.J.A.C. 19:9-3.2(a)1, governing Class 1 vehicles on the New Jersey Turnpike will increase from \$81.00 to \$109.50. The maximum service charge at N.J.A.C. 19:9-3.2(a)7 for tire repair/replacement services for trucks and buses on the New Jersey Turnpike will increase from \$168.00 to \$196.00, and the maximum labor rate will increase from \$101.00 per hour to \$118.00 per hour. The charge for an additional tire change on the New Jersey Turnpike will increase from \$33.50 to \$39.00 for each tire change beyond the first tire change.

The current rates at N.J.A.C. 19:9-3.2(b)1, road service rates governing Class 1 vehicles on the Garden State Parkway, set forth a service charge of \$81.00, and the current rates at N.J.A.C. 19:9-3.2(b)7, tire repair/replacement services for trucks and buses on the Garden State Parkway, provide for a maximum service charge of \$168.00, maximum

labor rate of \$101.00 per hour, and a charge for an additional tire change on the Garden State Parkway of \$33.50 for each tire change beyond the first tire change. The Authority has determined that an increase to these rates is warranted for the reasons set forth above. Therefore, road service rates at N.J.A.C. 19:9-3.2(b)1, governing the service charge for Class 1 vehicles on the Garden State Parkway, shall increase from \$81.00 to \$109.50; the maximum service charge for tire repair/replacement services at N.J.A.C. 19:9-3.2(b)7, for trucks and buses on the Garden State Parkway, will increase from \$168.00 to \$196.00, and the maximum labor rate will increase from \$101.00 per hour to \$118.00 per hour. The charge for an additional tire change on the Garden State Parkway will increase from \$33.50 to \$39.00 for each tire change beyond the first tire change.

#### **Subchapter 4. Inspection and Obtaining of Authority Records**

The Authority proposes to amend its rules at N.J.A.C. 19:9-4.1 and 4.2 to include website addresses for requesting and obtaining Authority records.

#### **Subchapter 5. Licenses, Permits, and Waivers**

N.J.A.C. 19:9-5.2 is amended to clarify a license to cross (LTC) provides access to the Roadway or Authority property for utility purposes only. It is further amended to clarify the final discretion of the Chief Engineer in the application process, and to add two new subsections clarifying that an LTC conveys no interest in land, and that licensees are responsible for costs associated with moving facilities or equipment impeding or interfering with Roadway improvements or projects.

N.J.A.C. 19:9-5.3 is amended to increase the application fee for an LTC to reflect the increased costs for evaluation. The fee has not increased since 1998 and did not previously reflect the now-routine use of outside consultants to review all LTC applications.

N.J.A.C. 19:9-5.6 is amended to require a film permit for the use of a drone to film on or above the Roadway or Authority property.

N.J.A.C. 19:9-5.8 is amended to prohibit the issuance of sale permits for the sale of cannabis or related products.

N.J.A.C. 19:9-5.10 is amended to prohibit the sponsorship of a person or entity engaged in the sale of cannabis or related products.

#### **Subchapter 6. Authority Rulemaking: Petitions for Rules, Opportunity to Be Heard, and Sufficient Public Interest**

No substantive changes are proposed.

#### **Subchapter 7. Organization of the New Jersey Turnpike Authority**

This subchapter was amended to reflect changes in the titles of certain departments and positions within the Authority, including the Information Technology Services department and the Director of Law. This amendment also reflects the changes in responsibilities between departments resulting from the Authority's merging of its former Maintenance Department into its Operations Department.

#### **Subchapter 8. Debarment, Suspension, and Disqualification from Contracting**

No substantive changes are proposed.

#### **Subchapter 9. Electronic Toll Collection Monitoring System**

The Authority proposes to amend its rules at N.J.A.C. 19:9-9.1 to remove methods of capturing toll violations that the Authority does not employ.

#### **Appendix A. Contractor's Classification**

The Authority proposes to repeal N.J.A.C. 19:9 Appendix A as references to it were eliminated from N.J.A.C. 19:9-2.7.

As the Authority has provided for a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

#### **Social Impact**

The rules proposed for readoption with amendments and repeals will enhance the safety and efficiency of the Roadways by updating existing guidance and restrictions to reflect changes and technological advances in vehicle and other technology. The rules proposed for readoption with amendments and repeals will also ensure the Authority can continue to

provide safe, efficient, and reliable services to Authority patrons, employees, and the public at large.

#### **Economic Impact**

The Authority does not anticipate that the rules proposed for readoption with amendments and repeals will have a significant economic impact on the Authority's patrons beyond adjusted fees and costs for towing services and permit applications associated with the increased costs for goods and services, which are fully discussed in the Summary above.

#### **Federal Standards Statement**

The rules proposed for readoption with amendments and repeals do not include any standards or requirements that exceed the standards or requirements imposed by Federal law because no Federal standards or requirements apply to the rules proposed for readoption with amendments and repeals.

#### **Jobs Impact**

The Authority does not believe that the rules proposed for readoption with amendments and repeals will generally result in the creation or the loss of any jobs in the State other than the proposed amendments at Subchapter 3, which may result in the addition of, or ability to maintain, employees at approximately 45 towing service provider businesses.

#### **Agriculture Industry Impact**

The Authority does not believe that the rules proposed for readoption with amendments and repeals will have any impact on the agriculture industry in New Jersey.

#### **Regulatory Flexibility Analysis**

The rules proposed for readoption with amendments and repeals impose compliance requirements on small businesses, as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., that use the New Jersey Turnpike and Garden State Parkway to transport persons and goods through this State. In this regard, however, substantive rules regarding the control of traffic are uniformly applied to all businesses for the protection of the traveling public. The remaining rules are generally organizational and procedural in nature and applied uniformly to all segments of the business community. By maintaining a facility that enables the expedient transportation of goods and services into and through this State, the rules ultimately inure to the benefit of small businesses utilizing the New Jersey Turnpike and Garden State Parkway.

Those small businesses seeking permits or licenses pursuant to the rules proposed for readoption with amendments and repeals will be required to apply and fees will be imposed. In addition, small businesses—as any other applicant—that make requests for information will be charged a fee for those requests in some circumstances. As neither the need for the Authority to regulate activity on its rights-of-way nor the difficulty of application or information request review are directly related to the applicant's business size, no lesser requirements or exemptions are provided for small businesses. In any event, the Authority does not believe that the compliance requirements are unduly burdensome and finds that they are consistent with the legislative mandate of the Authority, as the purposes of these requirements do not vary based upon business size.

Finally, small businesses seeking to contract with the Authority pursuant to the rules proposed for readoption with amendments and repeals will be required to meet the requirements set forth in this chapter, as changed through this rulemaking, concerning submissions and qualifications, which are applied uniformly to meet the Authority's goals with respect to projects and/or patron services. In order to comply with these requirements, small businesses will likely need to retain the services of a certified public accountant. Nevertheless, the Authority does not believe that the compliance requirements, as discussed in the Summary above, are burdensome. Furthermore, the Authority has incorporated in its evaluation criteria for proposals the extent to which the proposer contributes to the Authority's achievement of its Small Business Enterprise objectives, which criteria is intended to minimize any adverse economic impact on small businesses. Finally, the purpose of these requirements, as the Summary above describes in detail, does not vary based upon business size and, therefore, no differentiation is provided.

**Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments and repeals will have no impact on the affordability of housing in New Jersey, and there is no likelihood that the rules would evoke a change in the average costs associated with housing because the rules proposed for readoption with amendments and repeals concern the administration, operation, and use of the Roadways.

**Smart Growth Development Impact Analysis**

The rules proposed for readoption with amendments and repeals will have an insignificant impact on smart growth, if any, and there is no likelihood that the rules proposed for readoption with amendments and repeals would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan because the rules proposed for readoption with amendments and repeals concern the administration, operation, and use of the Roadways.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Authority has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:9.

**Full text** of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 19:9-2.4 and Appendix A.

**Full text** of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 9

NEW JERSEY TURNPIKE AUTHORITY RULES

SUBCHAPTER 1. TRAFFIC CONTROL ON, AND USE OF, NEW JERSEY TURNPIKE AUTHORITY PROPERTY

19:9-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...  
“Authority’s Standard Specifications” means the 7th Edition 2016 of the New Jersey Turnpike Authority’s Standard Specifications, as [may be updated from time to time] **amended and supplemented**.

[“Bicycle” means any vehicle with two wheels supported by a frame propelled by the feet acting upon pedals.]

“**Bicycle**” means any two- or three-wheeled vehicle, with or without a motor, having a rear drive wheel that is solely human-powered and having a seat height of 26 inches or greater when the seat is in the lowest adjustable position, or of any seat height when the rider sits in a reclined position with the feet extended forward to the pedals.

...  
“Day” means a [business] **calendar** day[; that is, any day other than Saturday, Sunday, or a State holiday], unless otherwise specified. **The last day of a period is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the end of the next day which is neither a Saturday, Sunday, nor legal holiday.**

...  
“**Drone**” means any unmanned aircraft system, without a human pilot onboard, which is instead controlled by an operator on the ground.

...  
“Hazardous material” means any material or substance that is capable of posing a risk to health, safety, and property or as set forth [in] at N.J.A.C. 7:1E-1.7[,] or 7:26-8[,] or 40 CFR Part 261 [and] or 49 CFR Part 172, as [amended or] recodified.

[“Interstate 95 Extension” means that portion of Interstate Highway 95 previously maintained by the New Jersey Department of Transportation and transferred to the Authority by N.J.S.A. 27:23-23.7, beginning at

Turnpike milepost 117.9+ and thence in a general northerly direction to milepost 122.0+, and all bridges, tunnels, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service stations, service facilities, communication facilities, and administration, storage and other buildings which the Authority may deem necessary for the operation of such extension, together with all property, rights, easements and interests which may be acquired by the Authority for the construction or the operation of such extension and all other property within the Interstate 95 Extension right-of-way.]

...  
“Parkway” means the express highway, superhighway, or motorway known as the Garden State Parkway, owned and operated by the Authority [under] **pursuant to** the provisions [of] at N.J.S.A. 27:23-1 et seq., and shall include, but not be limited to, the Parkway [Right-of-Way] **right-of-way**, all bridges, tunnels, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service stations, service facilities, maintenance and communication facilities, and administration, storage, State Police, and other buildings that the Authority may deem necessary for the operation of the Parkway, together with all property, rights, easements, and interests that may be acquired by the Authority for the construction, maintenance, or operation thereof and all other property within the Parkway [Right-of-Way] **right-of-way**, the Arts Center, the New Jersey Vietnam Veterans Memorial, and all real property and any improvements thereon owned by or operated [under] **pursuant to** the jurisdiction of the Authority and any improvements thereon. The term “Parkway” shall not include the Turnpike.

[“Parkway–Right-of-Way” means the area continued within the right-of-way lines as designated on the Parkway parcel property maps filed in the respective county clerk’s office of each county in which the Parkway is located.]

...  
“Turnpike” means the express highway, superhighway, or motorway known as the New Jersey Turnpike, owned and operated by the Authority [under] **pursuant to** the provisions [of] at N.J.S.A. 27:23-1 et seq., and shall include, but not be limited to, the Turnpike [Right-of-Way] **right-of-way**, all bridges, tunnels, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service stations, service facilities, maintenance and communication facilities, and administration, storage, State Police, and other buildings that the Authority may deem necessary for the operation of the Turnpike, together with all property, rights, easements, and interests that may be acquired by the Authority for the construction, maintenance, or operation thereof and all other real property within the Turnpike [Right-of-Way] **right-of-way** and all real property and any improvements thereon owned by or operated [under] **pursuant to** the jurisdiction of the Authority. The term “Turnpike” shall not include the Parkway.

[“Turnpike Right-of-Way” means the area continued within the right-of-way lines as designated on Turnpike parcel property maps filed in the respective county clerk’s office of each county in which the Turnpike is located.]

...

19:9-1.2 Speed limits

(a) Speed limits on the Turnpike shall be as follows:

1.-4. (No change.)

5. Except as specified [in] at (a)1 through 4 above, vehicles shall not be operated elsewhere on the Turnpike at a speed in excess of 55 miles per hour.

(b) Speed limits on the Parkway shall be as follows:

1. Unless otherwise posted, the maximum legal rate of speed at which any motor vehicle may be operated on the main roadway of the Parkway in both directions of traffic shall be 65 miles per hour for its entire length, except the following portions, for which the speed limits will be as indicated below:

[i. Forty-five miles per hour between milepost 27.0 to milepost 29.0, approaching and traversing the Great Egg Harbor Bridge;]

[ii.] i. Fifty-five miles per hour between milepost 80.6 to milepost 85.2; **and**

[iii. Forty-five miles per hour between milepost 126.7 and milepost 127.7, approaching and traversing the Driscoll Bridge; and]

[iv.] **ii.** Fifty-five miles per hour between milepost 123.5 to milepost [163.3, except as provided by (b)1iii above] **163.7.**

(c)-(g) (No change.)

#### 19:9-1.3 Traffic control

(a) The regulating, warning, or guiding of all traffic control on the Roadway shall be governed by official traffic control devices.

(b) (No change.)

(c) All official traffic control devices on the Roadway shall be obeyed by the operators of all vehicles, unless a **New Jersey** State Police officer or authorized Authority personnel directs otherwise.

#### 19:9-1.4 Uniform direction of traffic

(a) No vehicle shall be operated, pushed, or otherwise caused to move in a direction [which] **that** is against the normal flow of traffic on any traffic lane, deceleration lane, acceleration lane, access ramp, shoulder, or other roadway on the Roadway.

(b)-(c) (No change.)

#### 19:9-1.5 ["U" turns] **U-turns** prohibited

(a) The making of a ["U" turn] **u-turn** at any point on the Roadway is prohibited.

(b)-(c) (No change.)

(d) The making of a ["U" turn] **u-turn** on a toll plaza shall be done only at the direction of, and under the supervision of, toll plaza personnel or the New Jersey State Police.

#### 19:9-1.6 Parking, standing, or stopping on Roadway prohibited, except in case of emergency

(a) No vehicle shall be parked, stopped, loaded or unloaded, or allowed to stand on the Roadway, except where otherwise posted or expressly permitted by the Authority. Excepted from the provisions of this section while in the performance of assigned duties are State Police vehicles, the Authority's maintenance and official vehicles, and vehicles authorized to furnish towing and other services to disabled vehicles on the Roadway, and all other vehicles discharging emergency functions, such as ambulances and fire engines, when they are properly in use in the performances of duties authorized by the Authority, provided that no such excepted vehicles shall be stopped so as to create a hazard to other vehicles.

(b) "Emergency," for the purposes of this section, shall be defined and construed to exist under the following circumstances: if the vehicle in question is unable to move without assistance; the existence of inclement weather conditions, including, but not limited to, snow, ice, flooding, or high winds, that obstruct travel; if a vehicle is mechanically disabled; if a driver is ill or fatigued; or if conditions exist that are deemed an "emergency" by the Authority or the New Jersey State Police.

(c)-(e) (No change.)

(f) No vehicle is permitted to stop or stand on any portion of the Roadway for more than two continuous hours, except as set forth [in] **at** (f)1 and 2 below. In addition to the State Police, Authority employees in charge of operating parking facilities used for bus, vanpool, carpool, and related operations are authorized to enforce the provisions of this subsection.

1. Parking is permitted in the designated areas of facilities used for bus, vanpool, carpool, and related operations (["Park-n-Ride"]) for more than two continuous hours; provided, however, that parking in Park-n-Rides is prohibited before and after the posted hours of operation. Parking in Park-n-Rides on the Roadway shall be limited to the period of 4:00 A.M. to 2:00 A.M., prevailing local time.

2. Truck parking is permitted at designated truck parking facilities on the Roadway for more than two hours in designated truck spaces, but in any event for no longer than 10 consecutive hours. Trucks parked pursuant to this subsection may utilize electrification, as [same] may be provided by[,] the Authority or its vendors, or[,] subject to the terms and conditions of any applicable agreement between the Authority and its vendors, may park without using electrification. Vehicles parked pursuant to this subsection shall always be subject to compliance with all applicable laws, rules, and regulations.

**3. Bus parking is permitted at designated bus parking facilities on the Roadway for more than two hours in designated bus spaces, but in any event, for no longer than eight consecutive hours. Buses parked**

**pursuant to this subsection may utilize electrification, as may be provided by the Authority or its vendors, or subject to the terms and conditions of any applicable agreement between the Authority and its vendors, may park without using electrification. Vehicles parked pursuant to this subsection shall always be subject to compliance with all applicable laws, rules, and regulations.**

(g)-(h) (No change.)

#### 19:9-1.9 Limitations on use of Roadway

(a) Use of the Roadway and entry thereon by the following, unless otherwise authorized by the Authority, is prohibited:

1.-11. (No change.)

[12. Except for the Interstate 95 Extension, any vehicle operated pursuant to a special permit issued pursuant to N.J.S.A. 39:3-84, unless said permit or its equivalent is issued by the Authority;]

Recodify existing 13.-20. as **12.-19.** (No change in text.)

[21.] **20.** Vehicles owned or operated by a member or employee of a diplomatic mission, where said member or employee of the diplomatic mission has been sent prior written notice from the Authority that said member or employee violated any provision [of N.J.A.C. 19:9] **in this chapter** and who, subsequent to said notice, committed another violation of a provision of [N.J.A.C. 19:9] **this chapter.** Upon the occurrence of the second violation, said vehicle or vehicles shall be escorted off the Roadway at the nearest point of exit or interchange;

Recodify existing 22.-24. as **21.-23.** (No change in text.)

[25.] **24.** Vehicles operated with a tandem trailer combination, commonly known as a "double bottom," if one or more of the individual trailers exceeds 28 feet, six inches in length; [and]

[26.] **25.** (No change in text.)

[27.] **26.** Notwithstanding (a)1 through [26] **25** above, limitations, a combination of vehicles designed, built, and used to transport other motor vehicles may carry a load that does not exceed 65 feet overall length, including load overhang. The overhang shall be limited to seven feet and may not exceed three feet at the front and four feet at the rear.

(b) Use of the Parkway and entry thereon by the following is prohibited north of Interchange 105:

1. (No change.)

2. Notwithstanding the limitation [in] **at** (b)1 above, all vehicles in excess of 10,000 pounds are allowed on the KT Ramp in Woodbridge Township, Middlesex County, for purposes of accessing the Turnpike from northbound Route 9.

[(c) In addition to the State Police, toll collection employees of the Authority are authorized to enforce the provisions of this section, and all persons shall comply with the orders of such employees given to prevent the use of the Roadway by any of the aforesaid prohibited vehicles.]

[(d)] **(c)** (No change in text.)

#### 19:9-1.12 Damaging or defacing of the Roadway

(a) No unauthorized person shall cut, mutilate, or remove any trees, shrub, or plants located on the Roadway.

(b) No unauthorized person shall deface, damage, mutilate, or remove any official traffic control device, delineator, structure, fence, or other property or equipment of the Authority or its concessionaires.

(c) No material shall be discharged on the Roadway, whether intentionally or unintentionally, that may cause damage to the Roadway, the general public, the Authority, its agents and employees, or any real or personal property owned, leased, or under the supervision of the Authority. For purposes of this subsection only, "damage" includes any effect [which] **that** may be injurious to health, safety, or welfare, or which may cause financial loss or delay the movement of traffic.

(d) The operator, owner, or lessee of any vehicle from which a discharge in violation of any provision of this section or N.J.A.C. 19:9-1.10, 1.11(b), or 1.15 occurs, regardless of the cause of the discharge, shall cooperate fully with the Authority, its employees, agents, and third parties authorized to respond to an emergency, discharge, or blockage of traffic by the Authority, the State Police, and the New Jersey Department of Environmental Protection and shall take any action deemed necessary by them to restore normal traffic conditions and to remove spilled or otherwise discharged material from the Roadway immediately. The vehicle operated, owned, or leased by any person failing to cooperate or take such action as deemed necessary by the official in charge of the scene

where the discharge occurred is subject to impoundment by the Authority, the State Police, or the New Jersey Department of Transportation and their agents and employees until such time as all penalties, towing, and storage fees and costs have been satisfied.

(e) In addition to any penalties prescribed by this chapter or by the laws and regulations of other government entities including, but not limited to, Titles 2C, 13, 27, 39, and 58 of the New Jersey Statutes and Federal law or regulation, any person violating any provision of this section or N.J.A.C. 19:9-1.10, 1.11(b), or 1.15, shall be liable to the Authority for any and all costs arising out of said violation, including the costs of:

1.-3. (No change.)

4. Medical care, supervision, or other costs relating to personal injury suffered by the general public, the Authority, its agents, or employees; and

5. (No change.)

(f) The Authority may recover the costs [under (f)] **pursuant to (e)** above by way of complaint filed in Superior Court, Law Division, or United States District Court, by an administrative consent order executed by an authorized representative of the New Jersey Department of Environmental Protection, or by any other lawful means.

#### 19:9-1.13 Prohibited conduct

(a)-(b) (No change.)

(c) No person shall loiter on the Roadway in such a manner as to:

1.-3. (No change.)

4. Obstruct, molest, or interfere with any person lawfully on the Roadway. This paragraph shall include the making of unsolicited remarks of an offensive, disgusting, or insulting nature or which are calculated to annoy or disturb the person to whom, or in whose hearing, they are made.

(d) No person shall enter or remain on the Roadway for the purpose of offering, selling, hiring, or leasing any goods, wares, merchandise, or services, whether or not such services are to be rendered for compensation, nor for the purpose of distributing samples, pamphlets, or advertising matter of any sort, except as authorized by the Authority.

(e) No unauthorized person shall install or attempt to install, construct, or place upon any portion of the Roadway, any item, sign, structure, or equipment for any purpose whatsoever. Except as otherwise provided [by] at N.J.A.C. 19:9-5.9, no person shall erect or place any displays, posters, or placards, or engage in leafleting or display any advertising matter of any kind, regardless of the character or content of the message, on the Roadway.

**(f) No unauthorized person shall encroach, obstruct, or encumber, or attempt to encroach, obstruct, or encumber any portion of the Roadway through:**

1. **Building, construction, or installation of a structure or building;**
2. **Installation or construction of a fence;**
3. **Planting or installation of trees or plants;**
4. **Depositing debris, garbage, or rubbish; or**
5. **Any other actions covered by this section.**

Recodify existing (f)-(m) as (g)-(n) (No change in text.)

**(o) Operation or flying of a drone over the Roadway for any use is prohibited, except in cases where such operation is authorized by the Authority or by law.**

#### 19:9-1.14 Repairs and towing

(a) Subject to the provisions [of] at N.J.A.C. 19:9-1.6, a vehicle that becomes disabled while using the Roadway may be repaired by the occupants thereof, provided that the occupants can complete repairs within a two-hour period from the time of disablement and the disabled vehicle does not create a hazardous condition. A vehicle disabled and unattended by its occupants will be removed immediately by an authorized service provider of the Authority at the expense of the owner.

(b)-(f) (No change.)

#### 19:9-1.15 Transportation of hazardous materials

(a) The transportation or shipment on the Roadway of any hazardous materials, as defined in Part 172 of the regulations of the United States Department of Transportation (49 CFR 172), shall be subject to the requirements of [parts] **Parts 171 [to] through 178** inclusive of such regulations (49 CFR 171 [to] **through 178**) governing the preparation of the materials for transportation, construction of containers, packing, weighing, marking, labeling, billing, and certification of such materials.

(b) The transportation or shipment on the Roadway of radioactive materials or devices, and transportation of Division 1.1, 1.2, 1.3, and 1.4 explosives, as defined in Part 173 of the regulations of the United States Department of Transportation (49 CFR 173), shall be subject to the prior written approval of the Authority. All applications for such approval shall be made, in writing, addressed to the Director of Operations and shall provide, to the satisfaction of the Authority, that the shipment shall comply in all respects with the provisions of [parts] **Parts 171 [to] through 178** and 397 inclusive of such regulations (49 CFR [171-178] **171 through 178**, 397). The fee for processing the application for such approval shall be \$50.00. All approvals granted shall be subject to annual renewal.

(c) The Authority reserves the right to withhold the approval required [in] at (b) above, and to prohibit entry to the Roadway of any carrier of any hazardous materials, despite compliance with the aforementioned regulations of the United States Department of Transportation or any other pertinent regulations or law, if in the Authority's opinion, the transportation or shipment will be likely to endanger life or property.

(d) (No change.)

(e) Any operator, owner, or lessee of a vehicle on the Roadway [which] **that** contains any hazardous material shall be subject to all provisions and penalties [hereunder] **in this chapter**, in addition to any provisions of the United States Code, the New Jersey Statutes, and the New Jersey Administrative Code.

(f) In the event of a discharge of hazardous materials on the Roadway, all remedial efforts shall be conducted in compliance with this chapter and under the supervision of the Authority, the State Police, and/or the Department of Environmental Protection.

1. Unless contrary to the rules of the New Jersey Department of Environmental Protection or unless it would create an unsafe condition to the operator, the general public, or the Roadway, the operator, owner, or lessee of the vehicle may be afforded the opportunity to contain and remove, where practicable, discharged hazardous material using personnel, materials, and equipment:

i. (No change.)

ii. By another vehicle owned or leased by the operator, owner, or lessee of the vehicle from which the discharge occurred;

iii. (No change.)

iv. By third parties contracted to contain, clean up, and/or dispose of the discharge ([“]emergency response contractor[“]) by the operator, owner, or lessee of the vehicle specifically for the purpose of remediating hazardous materials discharges from the operator's vehicle.

2. No emergency response services may be provided pursuant to (f)1[i] through iv] above unless all the entities undertaking such services have provided to the Authority the following:

i. (No change.)

ii. An indemnification and hold harmless agreement in a form provided by or acceptable to the [General Counsel] **Director of Law** signed by the operator, owner, or lessee of the vehicle, the manufacturer's response team, or the emergency response contractor, as applicable; and

iii. Such other information, as may be required by the Director of Operations or the [General Counsel] **Director of Law**.

3. The operator, owner, or lessee of the vehicle from which the discharge occurred shall arrange and pay for emergency response services to be performed by any emergency response contractors approved [under] **pursuant to** the requirements [of] at (f)2 above. Approval of such contractors pursuant to (f)2 above is not to be considered a warranty or assurance by the Authority of such contractors' ability to perform emergency response services.

4. Whenever the operator, owner, or lessee refuses to arrange for an emergency response contractor, or whenever exigent circumstances or the risk posed by the discharge to Authority patrons, the general public, or the Authority's agents or employees is too great to await the arrival of the emergency response contractor arranged by the operator, owner, or lessee in the opinion of the Director of Operations, or the Director's designee, the Director, or the Director's designee, may arrange for emergency response services and long-term remedial efforts to be provided by an emergency response contractor of the Authority's choice. Emergency response and long-term remedial services may be performed by or through the Department of Environmental Protection or its agents, including, but

not limited to, any county environmental health department, or by private organizations engaged by the Authority. Procurement of emergency response contractors by the Authority to provide services [under] pursuant to this section shall be performed in accordance with the requirements [of] at N.J.A.C. 19:9-2, and the Authority shall make available to any operator, owner, or lessee so requesting a list of such emergency response contractors, which shall be deemed approved [under] pursuant to the requirements [of] at (f)2 above. The cost of services pursuant to this paragraph shall be based on the most recent agreement between the Authority and the emergency response contractor, or if there is no such agreement, shall be based on the schedule of rates normally charged to commercial concerns for emergency response or long-term remedial services, and shall be borne by the operator, owner, or lessee of the vehicle.

i.-ii. (No change.)

5. Access to the Roadway for the purposes of investigating or remediating contamination caused by the discharge or release of any material will be granted only after compliance with (f)2 above and only after application to the Chief Engineer. Such access will not be unreasonably withheld. All investigatory data, including, but not limited to, soil investigations, soil boring logs, **soil and/or groundwater disposal manifests**, ground water monitoring well logs, laboratory analytical data, correspondence with regulatory agencies, and all reports and submissions generated as a result of work on the Roadway shall be made available for **review by the Authority and prior to submission to any regulatory agency** inspection by the Authority or its agents, and copies of all such information and data shall be produced for the Authority or its agents upon request.

#### 19:9-1.16 Intoxicating [beverages] substances

No person shall consume or imbibe any intoxicating **substance** or beverage from a bottle or container containing liquor, beer, wine, or other alcoholic beverage, while occupying a vehicle on the Roadway. **Intoxicating substances include, but are not limited to, any cannabis or cannabinoid product as defined in the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:61-31 et seq.**

#### 19:9-1.18 Noise limits

(a) No vehicle shall be operated on the Roadway in violation of 49 [C.F.R.] CFR 325 or any other noise standards promulgated by the United States or the State of New Jersey and applicable to that class of vehicle.

(b) No vehicle shall be operated on the Roadway whose exhaust system is:

1.-2. (No change.)

3. Equipped with any cutout, bypass, or similar device designed to reduce the effectiveness of noise control devices or to increase noise.

#### 19:9-1.19 Tolls; payment required

(a) Except as provided [by] at N.J.S.A. 27:23-40, no vehicle shall be operated on the Roadway except upon the payment of such tolls as are required by the Authority.

(b) (No change.)

(c) It is hereby declared to be unlawful for any person to place or insert any plastic, paper, cloth, wadding or other article, object, material, substance, instrument, or contrivance within the coin-receipt chute or in any other part of an automatic toll collection machine on the Roadway, in such a manner as to prevent, interfere with, or obstruct the receipt of coins deposited therein by the patrons of the Roadway, or in such manner as to cause such coins to be uncollected or unlawfully returned, or, by any such other means or device whatsoever, to prevent or contrive to prevent the receipt of coins by such automatic toll collection machine, or to place or insert in any part of such machine any article, substance, contrivance, or device in such manner as to obstruct, alter, injure, or interfere with the action or operation of such machine, or, by any device or contrivance, or in any manner whatsoever, to obstruct, alter, injure, or interfere with the action or operation of such machine.

(d) It is hereby declared to be unlawful, and contrary to the toll collection monitoring system rules [in] at N.J.A.C. 19:9-9, for any person to operate, or owner to permit to be operated, a vehicle in an "Exact Change" toll lane of the Roadway, unless the person has the exact amount

in coin to pay the applicable toll in accordance with the current toll schedule.

(e) It is hereby declared to be unlawful, and contrary to the toll collection monitoring system rules [in] at N.J.A.C. 19:9-9, for any person to operate, or owner to permit to be operated, any vehicle in an "Exact Change" toll lane of the Roadway other than a Class 1 Vehicle without a Trailer.

(f) It is hereby declared to be unlawful, and contrary to the toll collection monitoring system rules [in] at N.J.A.C. 19:9-9, for any person to operate, or owner to permit to be operated, a vehicle in an "E-ZPass Only" toll lane of the Roadway, unless the vehicle contains a functioning and registered electronic toll collection device compatible with the electronic toll collection system employed or utilized by the Authority.

(g) It is hereby declared to be unlawful, and contrary to the toll collection monitoring system rules [in] at N.J.A.C. 19:9-9, for any person to operate, or owner to permit to be operated, a vehicle in a staffed toll lane of the Roadway, unless the person has sufficient funds in the vehicle to pay the applicable toll in accordance with the current toll schedule, or unless the vehicle contains a functioning and registered electronic toll collection device compatible with the electronic toll collection system employed or utilized by the Authority.

(h) On the Turnpike, any person who does not present a valid toll ticket upon exit, or whose electronic toll collection device is not read at both entry and exit, may be charged up to the maximum toll for the vehicle's class at the applicable exit interchange. It is hereby declared to be unlawful, and contrary to the toll collection monitoring system rules [in] at N.J.A.C. 19:9-9, if such occurrence is a result of patron misuse or improper installation of the electronic toll collective device in the vehicle.

#### 19:9-1.21 Other regulations

In addition to [these traffic rules] **this chapter**, users of the Roadway are subject to all applicable statutory provisions, including, but not limited to, penalties for nonpayment of tolls (N.J.S.A. 27:23-25), penalties for violation of any of the Authority's regulations (N.J.S.A. 27:23-32), United States Department of Transportation regulations, and, except as otherwise provided [hereinabove] **in this chapter**, the Motor Vehicle and Traffic Acts of New Jersey (N.J.S.A. 39:3-1 et seq., and 39:4-1 et seq.). Commercial vehicles in interstate commerce using the Roadway remain subject to Interstate Commerce Commission regulations.

#### 19:9-1.22 Filming, photographing, or videotaping on the Roadway prohibited, except as authorized

To [insure] **ensure** the health, safety, and welfare of motorists, the general public, and the Authority, no person shall be permitted to park, stop, stand, or travel at a slow speed in violation of N.J.S.A. 27:23-27, for the purpose of taking photographs, videos, or motion pictures (collectively, "film") on the Roadway for any reason without a permit issued by the Authority in accordance with N.J.A.C. 19:9-5.6. Notwithstanding the foregoing, filming for solely personal use is allowed without a permit in those areas of the Roadway in which parking, stopping, or standing is otherwise permitted.

#### 19:9-1.24 Lane usage; Interchanges 11 to 14

(a) The left travel lanes of the Turnpike's outer roadways from Interchange 11 in the Township of Woodbridge to Interchange 14 in the City of Newark are designated as special reserved lanes for high occupancy vehicles (HOVs) during certain weekday hours specified below. Such lanes may only be used by vans or cars with a minimum of three persons or more, inclusive of the driver, or by buses or motorcycles, or vehicles with electric or hybrid engines, regardless of occupancy, during time periods set forth [in] at (a)1 and 2 below. During all other hours, the lanes will be open to all vehicular traffic, with the exception of commercial vehicles [as that term is defined in N.J.A.C. 19:9-1.1].

1.-2. (No change.)

(b) (No change.)

(c) The Authority retains discretion to modify or suspend the occupancy requirement and/or hours of operation and permit the closure of the HOV lanes to allow operation as general purpose traffic lanes in emergency circumstances based upon the impact on patron safety, convenience, and the orderly flow of traffic.

(d) Enforcement of this section shall be governed by the traffic control provisions set forth [in] at N.J.S.A. 27:23-28 and N.J.A.C. 19:9-1.3.

#### 19:9-1.30 Arts Center

(a) For events requiring a **paper or electronic** ticket, no person shall be admitted to the Amphitheater without a ticket, including, but not limited to, minors. For events requiring a **paper or electronic** ticket, no person, including, but not limited to, a minor, may occupy a reserved seat at the Amphitheater unless able to produce a **paper or electronic** ticket [stub] for that seat, nor occupy lawn space unless able to produce a **paper or electronic** ticket [stub].

(b) (No change.)

(c) No person shall be admitted to the Amphitheater with the following in his or her possession:

1. (No change.)

2. Animals, **except that a service animal is permitted upon the showing of relevant documentation that the animal is individually trained to provide assistance to an individual with a disability;**

3. Firearms, knives, and other weaponry; or

4. (No change.)

(d) To effect compliance with (c) above, the Authority shall have the right to inspect any such package, can, bottle, cooler, box, flask, thermos bottle, bag, or container of any description in the possession of any persons seeking admission to the Amphitheater. Any refusal to permit such inspection shall be grounds to prohibit the admission of any person to the Amphitheater.

(e)-(g) (No change.)

#### 19:9-1.33 Violations and penalties

(a) (No change.)

(b) Except as set forth [in] at (a) above and N.J.A.C. 19:9-9.3(a), any violation of this chapter shall be punishable by a fine not exceeding \$500.00 or by imprisonment not exceeding 30 days or by both such fine and imprisonment. While imposing any penalty [under] **pursuant to** the provisions of this subchapter, the court having jurisdiction shall be guided by the appropriate provisions of any statute fixing uniform penalties for violation of certain provisions of the motor vehicle and traffic laws [contained in] at Title 39 of the Revised Statutes.

(c) The penalty for a person determined to be in violation of any weight restriction set forth [in] at N.J.A.C. 19:9-1.9(a)[26iv]25iv shall be calculated as set forth [in] at N.J.S.A. 39:3-[84.3(j)]84.3.j.

(d) A person determined to be in violation of the speed limits set forth [in] at N.J.A.C. 19:9-1.2 or to have committed another motor vehicle offense, when committed in an area of highway construction or repair, or when committed in a designated safe corridor, shall be subject to the fine in double the amount specified by law, in accordance with N.J.S.A. 39:4-203.5 and 27:23-29.

(e) A person determined to be in violation of any speed limit designated as 65 miles per hour [in] at N.J.A.C. 19:9-1.2 shall be subject to the fine in double the amount specified by law, in accordance with N.J.S.A. 39:4-98.6 and 27:23-29.

## SUBCHAPTER 2. PURCHASING AND CONTRACTING

### 19:9-2.1 General provisions

(a) All contracts of the Authority entered into for the performance of any work, or any purchases or hiring of personal property, services, supplies, equipment, or goods, shall be as prescribed in [these regulations and procedures] **this subchapter**. The objective of [these regulations] **this subchapter** is to enable the Authority to accomplish its procurement equitably and expeditiously at the least possible cost. [These regulations] **This subchapter** may be added to or amended by the specific provisions of [each bid or proposal specifications or contract documents, and the Authority's Standard Specifications,] **requests for bids, requests for proposals, or requests for qualifications of a particular procurement issued by the Authority**, as incorporated therein.

(b) The Authority shall develop and implement procedures for [maintaining electronically submitted bidding documents in a manner that preserves their integrity,] **utilizing electronic procurement platforms that preserve the integrity of the procurement process**, ensures that [their] timely receipt of **bids, proposals, or statements of qualifications**

can be established and verified, and allows the entire contents of each bid, **proposal, or statement of qualifications** to be [clearly established and] publicly inspected at the date and time [that bids are opened] **established for receipt and opening thereof**. To the extent practicable and consistent with realizing efficiencies that can be achieved through the use of electronic bidding, the Authority's procedures with respect to electronically submitted documents shall be functionally equivalent to those followed with respect to equivalent documents that are submitted in paper form.

(c) [Where electronic submission of a document is specifically authorized by statute, rule or by the specifications applicable to a procurement or sale of property, as the case may be, bidders may submit such documents in the time and manner required by the applicable statute, rule or specification.] Where [the] **an** applicable statute, rule, or specification requires the submission of any document in electronic form, the Authority shall reject any such documents that are submitted in paper form as nonresponsive.

### 19:9-2.2 Purchases, contracts, and agreements for amounts [requiring public advertising] over the applicable bid threshold, except contracts and agreements governed at N.J.A.C. 19:9-2.8 and 2.9

(a) Rules concerning advertising and awards of [bids] **purchases, contracts, and agreements:**

1. Advertisements [for competitive bids] **soliciting purchases, contracts, and agreements over the bid threshold** shall be placed in at least one [appropriate] newspaper or journal[,] having a large circulation in the State, and may be advertised on the Authority's website, [[www.nj.gov/turnpike](http://www.nj.gov/turnpike)] [www.nita.com](http://www.nita.com), or through other electronic means. Such advertisements shall be published not less than [seven calendar] **10** days preceding the date upon which the **bids, proposals, or statements of qualifications** are to be received and opened. All advertisements shall contain:

i. A brief description of the supplies, materials, equipment, or services to be furnished or performed;

ii. Notice of the place where [proposal forms, specifications, terms and conditions] **the request for bids or request for proposals or request for qualifications** may be obtained; and

iii. The place, date, and time when the sealed or electronic bids, **proposals, or statements of qualifications** shall be publicly opened.

2. In addition to advertising, [bids] **solicitations for any purchases, contracts, or agreements** may be [solicited from] **sent** to all known interested parties by [e-mail] **email**, regular mail, or by any other means[. Such], **and such** solicitations shall provide [prospective bidders with] at least the same information contained in the public advertisement.

3. [In the event that] **If an** amendment of any pertinent information [supplied to prospective bidders] **to the request for bids, request for proposals, or request for qualifications** becomes necessary, notice of [the change(s)] **such amendment(s)**, in the form of a written addendum, shall be given, **at least three business days prior to the public opening of such bids, proposals, or statements of qualifications**, to all [prospective bidders having requested specifications at least three days prior to the public opening of the bids] **who received the request for bids, request for proposals, or request for qualifications**.

(b) Rules concerning terms and conditions applicable to submission of bids or proposals:

1. All bids **and proposals** submitted [in paper form] must be properly signed [and] **by the bidder's or proposer's** duly authorized [by the bidder; all bids electronically submitted must be duly authorized by the bidder] **representative**.

2. Any correction of an entry made on a **bid or proposal** form submitted as a paper copy shall be initialed by a duly authorized representative of the bidder **or proposer**. Changes to documents submitted electronically in PDF or other format that provides the equivalent of a copy of a paper document, shall be made by submission of a replacement PDF document. If the replacement document contains handwritten or other corrections, they shall be initialed on the replacement document in the same manner as would be required as to a paper document. Changes in electronic files [such as spreadsheets, shall be made only by the substitution of replacement files as and when permitted by the



specifications, accompanied by a statement by the bidder that the substituted file is to be accepted in lieu of the original. Because the potential exists that formulas or other hidden elements of a spreadsheet or like file may be affected by revisions made by persons other than their author, the submission of partial files or requests for correction or revision of particular lines, numbers, and the like that do not include replacement of the entire electronic file will not be accepted] **can only be made in accordance with the submission rules of the electronic procurement platform being used by the Authority.**

3. Bidders and proposers may withdraw bids or proposals, or withdraw and resubmit bids or proposals, as the case may be, at any time prior to the time scheduled for public opening. A duly authorized representative of the [bidding firm] **bidder or proposer, as the case may be**, must sign for the withdrawal of bids or proposals submitted [as] in paper form [bids]. Bids or proposals so withdrawn shall be returned to the bidders or proposers, as the case may be, unopened. Any bid or proposal that is received by the Authority at the date and time established for [bid] **public opening** will be deemed to have been submitted intentionally. It is the bidder's and proposer's sole responsibility to ensure that [its] **their** withdrawal of any electronic bid or proposal actually prevents the withdrawn bid or proposal from being received and opened by the Authority.

4. (No change.)

5. In particular cases where permitted or required by the Authority in the particular bids [specifications] or proposals, bidders or proposers may be permitted to submit partial bids or proposals. The Authority reserves the right to accept any item or group of items of any bid.

(c) Rules concerning receipt, opening, and award [of bids]:

1. All bids, proposals, and requests for qualifications solicited by the Authority must be submitted in accordance with the [Authority's Standard Specifications, the specific provisions of each bid or proposal specifications and contract documents] **request for bids, request for proposals, or request for qualifications** on or before the time fixed for the public opening. Any bids, proposals, or statements of qualifications received after the [bidding has closed] **deadline for receipt of such bids, proposals, or statements of qualifications** shall not be opened.

[2. The purchasing or bid supervisor shall maintain a secured place for the purpose of receipt and securing bids. When sealed envelopes containing bids are received in the office of the Authority designated in the procurement documents, they shall be date-stamped and deposited (unopened) in the appropriate secure location.]

2. **The Authority shall ensure that all sealed paper bids, proposals, and statements of qualifications received in response to a request for bids, request for proposals, or request for qualifications shall be date-stamped upon receipt and deposited unopened in a secure location until the time fixed for public opening. Bids, proposals, and statements of qualifications submitted electronically shall be securely maintained by the electronic procurement platform until the time fixed for public opening.**

3. [Bids] **Paper bids, proposals, and statements of qualifications** shall be opened publicly at the time and place designated in the [Request for Bids, or Advertisement for Proposals. The] **request for bids, request for proposals, and request for qualifications. As to bids only**, the amount of each bid, the identity of each bidder, and such other information relevant to the bid shall be recorded and the bid tabulation shall be open to public inspection. **As to responses to requests for proposals and requests for qualifications, the identity of each respondent shall be recorded and read aloud.**

4. **As to electronic bids, the bids will be downloaded by the Authority, at the time designated for receipt of bids in the request for bids, from the electronic procurement platform, publicly opened, and the results posted on the electronic procurement platform's website and/or the Authority's website at [www.njta.com](http://www.njta.com).**

[4.] 5. Bids, proposals, and statements of qualifications received shall be evaluated based on the requirements or criteria set forth in the [Request for Bids or contract documents, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose] **request for bids, request for proposals, and request for qualifications, as the case may be.**

[5. Correction or withdrawal of inadvertently erroneous bids after opening, or cancellation of awards or contracts based on such mistakes, may be permitted in the sole discretion and determination of the Authority.]

6. **The Authority may, in its discretion and consistent with law, allow a bidder to withdraw its bid or proposal based on mistake.**

[6.] 7. [The] **Any contract awarded** shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder[. In the event that] **or in the case of an RFP, to the successful proposer.**

8. **As to bids, if bid prices submitted by two or more low responsible and responsive bidders are identical [and the criteria in the Request for Bids or contract documents do not resolve the tie bid], the [tie] tied low bids shall be broken by a coin toss held in the presence of a representative of the Department of Internal Audit. [If practical, the] The interested bidders [may] shall be invited [to the Authority] to observe [in] the coin [tossing] toss. Such tie breaking shall be noted on the [Bid Summary] bid summary. The Authority retains the right to reject any or all bids, to waive informalities and minor irregularities, and to rebid the entire contract, in accordance with applicable law.**

[7. When it is determined impractical to initially prepare a purchase description to support an award based on price, a Request for Bids or Advertisement for Proposals may be issued requesting the submission of unpriced proposals to be followed by a Request for Bids or Advertisement for Proposals limited to those bidders whose unpriced proposals have been determined as qualified for the project by the Director of Procurement and Materials Management or the Chief Engineer.]

[8.] 9. Bid or proposal **guarantee, in the form of bonds, letters of credit, or certified or cashier's check** may be required in such form and format as deemed acceptable by the [General Counsel] **Director of Law**, and in such amount as deemed necessary by the Director of Procurement and Materials Management or Chief Engineer to guarantee the amount of the bid or proposal. In that event, the requirement of [a] bid or proposal [bond] **guarantees**, and the form, format, and amount thereof shall be set forth or specified in the [bid specifications] **request for bids or request for proposals, as the case may be. [A successful bidder's failure] Failure of the successful bidder or proposer** to enter into a contract [contemplated by the bidding process may] **shall result in a forfeiture of the [bidder's security] bid or proposal guarantee and any other loss or penalty permitted by law.**

[9.] 10. [Performance bonds, contract bonds, or consents of surety may] **The request for bids or request for proposals may require the submittal of a consent of surety with the bid or proposal, which consent of surety must evidence that the surety will provide the required performance security if the bidder or proposer is awarded a contract. In such event, performance security, in the form of a bond or letter of credit, shall be required in such form and format as deemed acceptable by the [General Counsel] Director of Law, and in such amount as [deemed necessary by the Director of Procurement and Materials Management or Chief Engineer] set forth in the request for bids or request for proposals to ensure faithful performance of the contract [or] and for the payment of persons performing work on the [project] contract. [In that event, the requirement of a performance or contract bond or consent of surety, and the form and amount thereof, shall be set forth or specified in the bid specifications.] The [bond] performance security shall be submitted by the successful bidder upon notification.**

[10.] 11. Subject to applicable law [and N.J.A.C. 19:9-2.12], the Authority may disqualify from bidding [and/or revoke the prequalification of] any bidder in connection with the withdrawal or attempted withdrawal of any bid because of unilateral mistake. Such disqualification may be for a period not to exceed 12 months, and on such terms as the Authority may determine.

[11.] 12. (No change in text.)

(d) A supply, service, or product may be procured without competitive sealed proposals:

1.-3. (No change.)

4. **For the furnishing or performing of services of a professional or consultative nature.**

5. **For the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the New Jersey Board**

of Public Utilities and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with such board.

6. When the Authority has advertised for bids on two occasions and has received no bids on both occasions in response to its advertisements, or received no responsive bids. Any purchase, contract, or agreement may then be negotiated and may be awarded to any contractor or supplier determined to be responsible, except that the terms, conditions, restrictions, and specifications set forth in the negotiated contract shall not be substantially different from those that were the subject of competitive bidding.

19:9-2.3 Purchases, contracts and agreements for amounts under [amount requiring public advertising] **the applicable bid threshold, except contracts and agreements governed by N.J.A.C. 19:9-2.8 and 2.9**

(a) [In the case of purchases of personal property or services,] **Purchases, contracts, and agreements for goods and services**, where the aggregate cost or amount involved is less than the [minimum amount for which public advertising for bids is required] **applicable bid threshold**, competitive bidding is not required. Price quotations shall be solicited from at least three vendors, unless such solicitation is [deemed inappropriate] **not feasible, as determined** by the Chief Engineer or the Director of Procurement and Materials Management.

(b) [Awards of bids may be to other than the lowest bidder for valid reasons,] **A purchase of goods or services, or the award of a contract or agreement need not be made on the basis of the lowest price quotation** if, specifically, recommended by the Chief Engineer or the Director of Procurement and Materials Management [(in consultation with the [General Counsel])] **Director of Law**.

#### 19:9-2.4 (Reserved)

19:9-2.5 Purchase under government contracts

(a) When it is determined to be proper and in the best interest of the Authority, the Authority may purchase equipment, goods, materials, supplies, and services directly, without advertising, from vendors who hold contracts with the State of New Jersey, other State or multi-state authorities or agencies [or political subdivisions of the State of New Jersey] (State contracts), or the United States, or any agencies or political subdivisions of the United States (Federal contracts).

(b)-(d) (No change.)

19:9-2.6 Sale of surplus property

(a) The purpose of this section is to establish and prescribe uniform general rules and procedures for the sale of surplus [personal property and] real property **and personal property** owned by the Authority at the highest possible price and to provide for the electronic solicitation of bids where doing so is likely to be advantageous to the Authority. No such sale shall be made except in accordance with this section.

(b) [Disposition of surplus real property shall be as set forth in this subsection.] **Surplus property procedures are as follows:**

1. From time to time, or in response to a request, the Law Department, in consultation with other Authority departments, may undertake a review of real property owned by the Authority in order to make an initial determination whether such real property may no longer be necessary for the operations of the Authority and may, therefore, potentially be classified as surplus real property. In making such a determination, one or more of the following factors may be considered:

i.-iii. (No change.)

iv. The property's estimated market value[.];

2. Upon such an initial determination that real property may be classified as surplus, the [General Counsel] **Director of Law**, or his or her designee, shall request certifications from the following persons stating that the real property, to the best of their knowledge, may properly be categorized as surplus property and is no longer needed by the Authority and is surplus to its needs: [the Authority's Director of Maintenance, the Authority's] **the Director of Operations**, the [Authority's] **Chief Engineer**, the [Authority's] **General [Engineering Consultant] Consulting Engineer**, and the [Authority's] **Chief Information Officer**. If appropriate, the above persons shall so certify as requested by the Law Department. In the alternative, if the property may not be properly categorized as surplus,

the above persons shall so indicate and advise the Law Department that the property shall not be declared surplus[.];

3. No real property may be sold or otherwise disposed of by the Authority without issuance of all of the certifications set forth [in] **at (c)2** above, and a determination by the Authority that the real property is surplus to its needs[.];

4. An appraisal or administrative determination of value, as deemed appropriate by the [General Counsel] **Director of Law**, or his or her designee, shall be obtained by the Authority in order to determine the fair market value of the surplus real property[.];

5. Surplus real property shall be disposed of only after public advertisement for competitive bids in accordance with (e) below, except for those dispositions set forth [in] **at (b)5i** through vii below, which shall be exempt from the public bidding requirement:

i. Disposition to a public or governmental entity, including, but not limited to, any political subdivision, agency, department, commission, board, authority, or body corporate and politic of the State of New Jersey, any county or municipality of the State of New Jersey, any public entity or authority of the United States or any department or agency thereof, or any public utility, as defined [by] **at N.J.S.A. 48:2-[13a]13a**;

ii.-iii. (No change.)

iv. Disposition of surplus real property that, at the discretion of the Authority, has been determined to be [landlocked (that is, lacking access to a public road),] undersized (and, therefore, not developable pursuant to applicable laws or ordinances)[.] or severely impaired;

v.-vi. (No change.)

vii. When the Executive Director determines that the character or condition of the real property or unusual circumstances make it impractical to advertise publicly for competitive bids[.];

6. Prior to disposition of surplus real property that does not fall under one of the exceptions set forth [in (c)5i] **at (b)5ii** through vii above, the Authority shall contact the appropriate public and governmental entities, as set forth [in (c)5i] **at (b)5i** above, that may have a reasonable interest in the surplus real property to inquire whether such entities wish to purchase such property. The Authority shall allow such entities a reasonable time, not less than 14 days, to respond before publicly advertising the real property for bids. If more than one public or governmental entity makes an offer to purchase the surplus real property, the Authority shall accept the offer that best serves the interest of the Authority and the public interest[.]; **and**

7. (No change.)

(c) [Disposition of surplus] **Surplus** personal property [shall be as set forth in this subsection.] **procedures are as follows:**

1. In response to a request from a department or through periodic reviews of personal property undertaken by the Procurement and Materials Management Department, in consultation with other Authority departments, certain personal property may no longer be necessary for the operations of the Authority and, therefore, will be classified as surplus personal property[.];

2. No personal property may be sold or otherwise disposed of by the Authority without a determination by the Executive Director, as recommended by the Director of Procurement and Materials Management, that such personal property is surplus to the Authority's needs[.];

3. All sales of surplus personal property where the aggregate anticipated proceeds exceed \$2,500 shall be made only after public advertisement for competitive bids in accordance with the procedures set forth [in] **at (e)** below, unless one of the following circumstances is met:

i.-ii. (No change.)

iii. The Authority specifically provides by resolution that the requirement of public advertising be waived as to a particular transaction[.];

**4. Where there is a reserve or other minimum price for an item or items offered for sale below which bids will not be accepted by the Authority, all prospective bidders shall be so advised in the bid solicitation; and**

[4.] **5.** If, after advertising and public bidding of the surplus personal property, or if, after an attempt at sale of the surplus personal property [under] **pursuant to (d)3** below, bid prices are not deemed reasonable or acceptable to the Authority or no bids are received, the surplus personal

property may be traded in, scrapped, or sold to any interested purchaser, including sale through an agent or liquidator who specializes in such sales, or may be donated by the Authority to a not-for-profit, public, or governmental entity.

(d) Public **advertising of competitive bids** [procedures] for sales of surplus real property and surplus personal property shall be as follows:

1. Advertisements for competitive bids shall be placed in an appropriate newspaper(s) or journal(s) having a large circulation in the State, posted on the Authority's website, the State of New Jersey's website, [and/or] **and** by any other **reasonable** means [reasonably approved by the Authority] or **as** required by applicable law. Such advertisements shall be published in sufficient time to allow inspection of the property being sold prior to the date upon which the bids are to be received and opened.

2. All advertisements must contain:

i. (No change.)

ii. Notice of the place or electronic location where quotation forms, terms, and conditions may be obtained, together with a provision that [the Executive Director may reject] any or all bids **may be rejected, in accordance with applicable laws;**

iii.-iv. (No change.)

3. In addition to advertising, when required, [bids may be solicited in writing from] known interested parties **may be sent** by [e-mail] **email**, regular mail, or by any other means, **a copy of bid solicitations**. [Such solicitations shall provide prospective bidders with at least the same information contained in the public advertisement.]

4. [In the event that amendment of any pertinent information supplied prospective bidders becomes necessary, a] **A** written addendum shall be publicized on the Authority's website at least five days prior to the public opening of the bids, **in the event that an amendment to any pertinent information becomes necessary**.

5. [In the case of surplus real property offered for bid, a prospective bidder shall be responsible for conducting its own due diligence to determine the condition of the property.] The Authority shall make available any back title reports in its possession with respect to the **real property being advertised** [at the time, place, and location set forth in the bid advertisement], but without any representation by the Authority as to [their] **the accuracy or completeness**, it being understood that the surplus real property is being sold "as is, where is, and with all faults," without any representation, warranty, or assurances of any kind] **of the reports**.

6.-8. (No change.)

[9. The Director of Procurement and Materials Management or his or her designee shall open and publicly read the bids.]

**9. Sealed or electronic bids shall be publicly opened at the place, date, and time for the receipt of bids.**

10. (No change.)

[11. The Bid Summary Form shall record all bids timely received whether complying with all formalities or not; due note shall be made on the bid summary form with respect to any bid which did not comply with formalities.]

[12.] **11.** Bids shall be accompanied by a deposit equaling 10 percent of the total submitted price. Such bid deposit shall be submitted in the form of a **certified check**, cashier's check, [or.] executed money order payable to the "New Jersey Turnpike Authority[.]," **or such other lawful payment as may be set forth in the bid solicitation**. Failure to comply with this provision shall result in rejection of the bid. Bids of less than \$100.00 shall require no bid deposit.

Recodify existing 13.-14. as **12.-13.** (No change in text.)

[15.] **14.** Any correction of an entry made [on the Request for Bid Form or Quotation Form is] to **a bid shall** be initialed by [the party signing] the [bid] **bidder**.

[16.] **15.** Bidders may withdraw bids, or withdraw and resubmit bids, at any time prior to the scheduled time of the public opening. A [bidder's] duly authorized representative [of the bidding firm must] **shall** sign for the withdrawal of [bids submitted as] paper bids. Paper bids so withdrawn shall be returned to the bidders unopened. Electronic bids may be withdrawn pursuant to the electronic bidding procedures set forth by the Authority. Any bid that is received by the Authority at the date and time established for bid opening will be deemed to have been submitted intentionally.

[17.] **16.** (No change in text.)

(e) The following general terms and conditions apply to the sale of surplus real property and surplus personal property:

1.-3. (No change.)

4. For surplus personal property, the balance of the bid price is due within 15 calendar days after the bidder's receipt of notice of the award. If such balance is in the amount of \$100.00 or more, payment shall be made by **certified check**, cashier's check, executed money order, or such other lawful method of payment as may be [approved by the Director of Procurement and Materials Management] **provided for in the bid solicitation**. Failure to pay such balance or to pick up the awarded property within the 15-day period shall entitle the Authority to retain the bid deposit as liquidated damages and not as a penalty, as the amount of damages to the Authority resulting from such breach would be difficult, if not impossible, to determine and retention of the deposit would be justified. Under such circumstances, with the approval of the Executive Director, or his or her designee, the Director of Procurement and Materials Management may sell the property to the next highest bidder, or otherwise dispose of the property in accordance with this section. This action is to be accomplished by a memorandum of the Director of Procurement and Materials Management, approved by the Executive Director, or his or her designee, with copies to the Law and Finance Departments.

5. For surplus real property, the balance of the bid price shall be paid by the successful bidder by **certified check**, cashier's check, executed money order, or such other method of payment as may be [approved by the Executive Director or his or her designee] **provided for in the bid solicitation** within the time set forth in the [contract] **bid solicitation**. Installment sales are not permitted. Title to the surplus real property shall be transferred to the purchaser when full and final payment of the approved bid price is made, or as otherwise agreed, in writing, between the purchaser and the Authority. The contract of sale shall require that the purchaser's failure to pay the balance of the purchase price as specified by the Authority or failure to take title or abide by any other term or condition of the contract shall result in a cancellation of the sale and a forfeiture of the bid deposit to the Authority, as liquidated damages and not as a penalty, as the amount of damages to the Authority resulting from such breach would be difficult, if not impossible, to determine and retention of the deposit would be justified. Upon such cancellation, the Authority may accept the bid of the next highest qualified bidder or, if none exists, otherwise dispose of the surplus real property in accordance with this section.

6. Unless specifically stated otherwise in the solicitation, the **surplus real property and surplus personal property** upon which bids are invited is for sale only "as is, where is, and with all faults" and the Authority makes no representation, express or implied, as to the condition of said property. The surplus personal property items sold are to be removed at the buyer's expense.

[7. Where there is a reserve or other minimum price for an item or items offered for sale below which bids will not be accepted by the Authority, all prospective bidders shall be so advised by proper notation on the related quotation form.]

8. Qualified bids, or any portion thereof, may be summarily rejected in writing by the Director of Procurement and Materials Management to the Executive Director, with copies thereof directed to the Law and Finance Departments, where such qualification adversely affects the Authority's best interest.]

[9.] 7. The procedure for handling tie bids shall be the same as that set forth at N.J.A.C. 19:9-2.2 [except that all determinations shall be made on the basis of the highest responsive bid price].

19:9-2.7 Procedure for prequalification [and award of] **to bid on** construction contracts

(a) All prospective bidders for construction **contracts** in excess of \$50,000 shall **annually apply to** be prequalified [annually into classifications] by the Chief Engineer **by submitting a Contractor's Qualifying Statement**. Prospective bidders will be [classified according to the type of work and the amount of work on which they are entitled to bid as set out in] **prequalified in a category of work at a maximum classification rating for which they are entitled to bid in accordance with** the [schedule of classifications set forth at Appendix A to this

chapter, incorporated herein by reference. Proposals submitted by prequalified bidders who have received classification ratings as set forth in Appendix A within 10 percent of the total price of the proposal will be considered for award by the Authority] **Contractor Classifications and Ratings Schedule available on the Authority's website at [www.njta.com](http://www.njta.com).** The Chief Engineer may, from time to time, add additional specialized work categories to the [schedule of classifications] **Contractor Classifications and Ratings Schedule. Bidders shall have effective classification rating in an amount not less than the amount of their respective bids. Instructions for prequalification for award of construction contracts are located on the Authority's website at [www.njta.com](http://www.njta.com).**

(b) In order to prequalify [in classification], prospective bidders shall submit annually, or at least 21 calendar days prior to bid opening [of a specific contract], proof of the [following] items listed in this subsection. **In determining the prequalification of a prospective bidder, only that work performed by the prospective bidder on a contract(s) shall be considered:**

1. As to type of work, recent satisfactory experience as a contractor on a contract involving substantially the same or similar work [to] as the classification being sought;

2. As to [amount] **value** of work, satisfactory experience within the past three years [as a] **by the contractor**, either on a single contract performed in a single year, or several contracts performed in a single year, having the following minimum [amounts] **values** of contract work for such single year, for the specified classification ratings listed below:

[i. \$90,000 worth of contract work in a year for a classification rating up to \$150,000 maximum;

ii. \$300,000 worth of contract work in a year for a classification rating up to \$500,000 maximum;]

[iii.] **i. \$600,000 Less than \$1,200,000** worth of contract work in a year for a classification rating up to \$1,000,000 maximum;

[iv.] **ii. \$1,200,000 to \$2,999,999** worth of contract work in a year for a classification rating up to \$2,000,000 maximum;

[v. \$2,100,000 worth of contract work in a year for a classification rating up to \$3,500,000 maximum;]

[vi.] **iii. \$3,000,000 to \$5,999,999** worth of contract work in a year for a classification rating up to \$5,000,000 maximum;

[vii.] **iv. \$6,000,000 up to \$11,999,999** worth of contract work in a year for a classification rating up to \$10,000,000 maximum; [and]

[viii.] **v. \$10,000,000 \$12,000,000 up to \$29,999,999** worth of contract work in a year for a classification rating [of unlimited] **up to \$20,000,000 maximum;**

**vi. \$30,000,000 to \$59,999,999 worth of contract work in a year for a classification rating up to \$50,000,000 maximum;**

**vii. \$60,000,000 to \$119,999,999 worth of contract work in a year for a classification rating up to \$100,000,000 maximum;**

**viii. \$120,000,000 to \$199,999,999 worth of contract work in a year for a classification rating up to \$200,000,000 maximum; and**

**ix. \$200,000,000 or greater worth of contract work in a year for a classification rating of unlimited;**

3. Satisfactory financial condition of the prospective bidder. The [contractor's] **Contractor's Qualifying Statement** must be accompanied by certified audited financial statements or a CPA review of financial statements. The financial statements shall be complete, with a balance sheet, related statements of income and retained earnings and cash flows[,], **or equivalent generally accepted accounting principles (GAAP)-compliant statement.** The financial statements shall be [completed] **audited** by a certified public accountant [or public accountant], as established [by] **at N.J.S.A. 45:2B-[29]49 et seq.**, who is independent of, and not an employee of, the contractor for which the financial statements are being provided.

i. The certified audited financial statements shall have an unqualified opinion. The CPA review of financial statements shall be in conformity with [generally accepted accounting principles] **GAAP.** Both the audited and CPA-reviewed financial statements shall be for a full one-year accounting cycle.

ii. Submission of a consolidated financial statement is acceptable. It may be submitted with the Contractor's Qualifying Statement completed in the name of the parent company. A consolidated financial statement

submitted with a Contractor's Qualifying Statement and completed in the name of the subsidiary shall include a separate breakdown of the financial statements, and a separate unqualified opinion that includes balance sheet, income statement, statement of changes in financial position, and cash flows, **or equivalent GAAP-compliant statement**, all in the name of the subsidiary.

iii. (No change.)

[iv. A contractor can be pre-qualified for contract work with a classification rating up to \$1,000,000 with submission of a CPA review of financial statements and qualifying statement; however, reliance upon such a submission will result in a reduction of the contractor's classification rating by one rating;]

**iv. If a contractor does not submit certified audited financial statements, then the maximum classification rating that the contractor may be granted is \$10,000,000; in addition, the lack of certified audited financial statements will result in a reduction by one rating of the classification rating to which the contractor would have otherwise been entitled;**

4. (No change.)

5. That the **prospective** bidder is not now, nor has been involved, directly or indirectly, in any proceeding, conduct, or activity adversely relating to, or adversely reflecting upon, the moral integrity of the **prospective** bidder by means of sworn affidavit;

6. A satisfactory workplace safety record[, including, but not limited to, records of the prospective bidder's experience modification rating for the previous three years] **based on projects listed in a Contractor's Qualifying Statement** and any other workplace safety records or information requested by the Chief Engineer; and

7. When submitting a proposal, prequalified bidders need not submit another **Contractor's Qualifying Statement** but shall instead submit a prequalification recapitulation in such form as may be prescribed by the Chief Engineer.

(c) The Chief Engineer, or his or her designee(s), shall review the [statement] **Contractor's Qualifying Statement** and other information submitted by the prospective bidder and shall [notify] **provide written notice** to the prospective bidder of the decision [as to their classification by certified mail]. The classification will be valid for a period of one year from the date of the Chief Engineer's decision, and the prospective bidder will be allowed to bid on all Authority contracts within its classification limits for this [one year] **one-year** period without the need of additional prequalification, subject to (d) and (g) below. At the end of this [one year] **one-year** period, the prequalification of the **prospective** bidder will expire, and to be renewed, the prospective bidder must meet the requirements [of] **at** (b) above.

(d) The Chief Engineer shall reserve the right to require a prospective bidder to submit such additional evidence of qualifications as deemed necessary, and shall consider any evidence available of the financial, technical, and other qualifications and ability of the **prospective** bidder. The Chief Engineer may change or revoke at any time the classifications of any **prospective** bidder upon any evidence that [said] **such prospective** bidder does not meet the financial, technical, moral, or other qualifications of the classification. The Chief Engineer may direct a Request for Qualifications Information (RFQI) process to be used in prequalifying contractors under classifications[,], not listed [in Appendix A,] **in Contractor Classifications and Ratings Schedule on the Authority's website at [www.njta.com](http://www.njta.com),** but appropriate for specialized projects involving homeland security or other exigent circumstances.

(e) The Chief Engineer may deny prequalification [of] **to any prospective** bidder who fails to [comply with the provisions of subsection (b) above] **satisfy the requirements of this subchapter** and, further, may recommend [to the Authority] rejection of any bid **requiring prequalification** where the bidder[, at such time, has failed to comply with the provisions of this section] **has failed to be prequalified.**

(f) (No change.)

(g) Bidders on all other contracts not requiring prequalification shall, however, comply with the provisions [of] **at** (b)3, 4, 5, and 6 above.

19:9-2.8 Procedure for prequalification and award of contracts for architectural, engineering, and land surveying services

(a) This section shall apply to contracts for architectural, engineering, and land surveying services that are not subject to N.J.A.C. 19:9-2.2(d), 2.3, or 2.5. The Authority may choose to apply this section to contracts below the public bidding threshold as set forth [in] at N.J.S.A. 27:23-6.1.b in its sole discretion. The Authority may use procurement processes other than those prescribed in this section if those processes have been approved by the Federal government or other State statute, rule, or executive order, or if an emergency has been declared by the Executive Director. [Where a procurement involves the proposed use of Federal funds, and Federal law, regulations, or guidelines require a procurement procedure other than those prescribed in this section, the Authority shall follow the Federal procedures. All procedures provided for herein that are consistent with Federal requirements shall be followed.] **In its discretion, the Authority may issue one solicitation for award of contracts for multiple projects that are similar in size and complexity. The prequalification and solicitation process outlined in this section shall be followed, and any multiple-project Requests for Expressions of Interest (RFEOI) shall require proposers to submit EOIs for all projects listed in the solicitation. Under no circumstances will a proposer be awarded more than one contract under a multiple-project solicitation.**

(b) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

“Complex [projects] procurements” means [projects other than “simple projects,” and includes most projects involving transportation, planning or complex design, or any project] **the process for soliciting professional services having an estimated fee over [\$2,000,000.] \$6,000,000 or that involve transportation, planning, or complex design. Upon request of the Chief Engineer based on his or her professional judgment, and with the approval of the Executive Director, a particular procurement otherwise meeting the definition of a complex procurement may be classified as a simple procurement.**

“Director” means either the Chief Engineer[,] or Director of Operations[, or Director of Maintenance], depending on whether the contract emanates from the Engineering Department[,] or the Operations Department[, or the Maintenance Department].

“EOI” means an expression of interest from firms interested in performing professional architectural, engineering, and land surveying services for the Authority.

“Firm” means any individual, firm, partnership, corporation, association, joint venture, or other legal entity permitted by law to provide professional architectural, engineering, or land surveying services in this State.

“Order for professional services” (OPS) means a contract for professional services awarded in accordance with this section.

“Professional services” means architectural, engineering, and land surveying services [“means those services,” including, but not limited to, planning, design, environmental, and construction inspection services required for the development and construction of projects, within the scope of the practice of architecture, professional engineering, or professional land surveying as defined by the laws of this State or those services] performed by an architect, [professional] engineer, or [professional] land surveyor in connection with his or her professional employment practice, and which are subject to N.J.S.A. 52:34-9.1 et seq.

“Qualified firm” means a firm that is currently prequalified, prior to submission of the EOI, in accordance with the Professional Service Prequalification Questionnaire process set forth in this section.

“Simple [projects] procurement” means [projects or other engineering] **the process for soliciting professional services where the scope [can be] is clearly defined, [and] is not likely to change during the course of the [project where] professional services, and the estimated fee is [\$2,000,000] \$6,000,000 or less. [Simple projects include, but are not limited to, bridge inspection projects, supervision of construction projects and highway and bridge design projects with an estimated fee of \$2,000,000 or less.] Upon request of the Chief Engineer, based on his or her professional judgment, and with the approval of the Executive Director, a particular procurement otherwise meeting the definition of simple procurement may be classified as a complex procurement.**

...

(c) Professional services prequalification requirements shall be as follows:

1. A firm interested in a contract for professional architectural, engineering, or land surveying services shall complete and file a “Professional Service Prequalification Questionnaire” (“PSPQ”) with the Authority. Firms qualified for a particular type of [project] **professional services** based on the Authority’s evaluation of the PSPQs will be eligible for consideration when such [projects] **professional services** are being contracted for by the Authority without having to present their qualifications on a [project-specific] **contract-specific** basis.

2. For the procurement of general consultants, rather than for a [project-specific procurement] **specific type of professional services**, the procedures relating to prequalification of firms may be modified to address the needs and requirements of the Authority.

3. Each firm shall identify on the PSPQ each type of work for which the firm desires prequalification. All PSPQs shall contain the following information:

i. Current and past [projects] **professional services** undertaken by the firm;

ii. The nature of the **professional services** [provided on each project] **identified in response to (c)3i above;**

iii. The **resumes, including** the qualifications, of the professionals employed by the firm **seeking prequalification;** [and]

**iv. For the most current full year accounting cycle, copies of:**

**(1) Audited or independent CPA-reviewed financial statements, in which case, the PSPQ may remain current for 24 months; or**

**(2) Compiled or internally prepared financial statements, in which case, the PSPQ may remain current for 12 months; and**

**[iv] v. Other information [which] that the Authority may determine necessary to assess the firm’s qualifications.**

4. A firm shall notify the Authority, in writing, of any substantial change in the information on its PSPQ when such change occurs. A firm shall have a current PSPQ on file with the Authority on the date of the [EOI submittal] **Expressions of Interest (EOI) submission** in order to be considered for a [project] **contract**. For purposes of this section, a current PSPQ is one **that [which] has been on file with the Authority for no more than 24 months or, in certain cases, for no more than 12 months.**

(d) [Expression of interest (EOI) solicitation and/or advertisement] **Advertisement for Requests for Expressions of Interest** shall be as follows:

1. A Request for EOIs (RFEOI) shall be advertised in an appropriate newspaper or journal, having a large circulation in the State and/or advertised on the Authority’s website, [[www.nj.gov/turnpike](http://www.nj.gov/turnpike)] [www.nita.com](http://www.nita.com), or through other electronic means. Such advertisements shall be published not less than seven calendar days preceding the date upon which the EOIs are to be received. The RFEOI shall identify the scope of **professional services** required from the prequalified firms and the evaluation process to be used for the [project] **selection of the successful prequalified firm**. When the Authority seeks to [engage] **award** more than one [firm] **contract** through a single RFEOI, the number of [firms] **contracts** that the Authority intends to [engage] **award** shall be identified in the RFEOI.

2. When **professional services of a general consultant [services]** are needed, the Authority shall establish a list of criteria that firms must meet in order to [be sent] **receive** an RFEOI for the general consultant contract. Firms that meet such criteria shall be sent an RFEOI.

(e) Evaluation of EOIs shall be as follows:

1. Upon receipt of the EOIs **for a simple procurement or complex procurement**, the Authority shall review the EOIs for completeness and shall reject those EOIs [which] **that** are incomplete. The Authority shall notify, **in writing**, all firms whose EOIs are determined to be incomplete [in writing]. [For all projects, if] **If** fewer than three EOIs are deemed complete, the EOI solicitation may be [rewritten and/or] re-solicited, **with or without modification**, or the procurement may continue with fewer than three firms, as determined by the Executive Director, in consultation with the Director.

2. For simple [projects] **procurements, if the EOIs are deemed complete in accordance with (e)1 above**, the [technical evaluation process shall consist of the evaluation of EOIs in accordance with the

procedures set forth in this section.] **Technical Review Committee shall evaluate and rank the EOIs in accordance with (e)4 below, and request a fee proposal from the top three technically ranked firms, or from less than three firms, as the case may be, in accordance with (e)1 above. At the discretion of the Director, fee proposals may be requested from more than three firms. No firms shall be told of their ranking position at that time. The selection process shall continue in the manner described at (g) below. If a particular simple procurement warrants, the Director may elect to issue a Request for Proposal (RFP) and the selection process shall proceed in accordance with the process for complex procurements.**

3. For complex [projects] procurements, if five or more EOIs are deemed complete in accordance with (e)1 above, the [evaluation of EOIs shall serve as a method by which to create a list of firms that shall receive the requests for proposals (RFP) for the project. If only three or four EOIs have been deemed complete by the Authority, these firms shall receive the RFP and the Technical Review Committee will not conduct an evaluation of the EOIs as set forth below. If more than four EOIs have been deemed complete, the EOIs shall be submitted to the Technical Review Committee for review as set forth in (e)4 below.] **Technical Review Committee shall evaluate the EOIs in accordance with (e)4 below. If at least three, but not more than four, EOIs are deemed complete, these firms need not be evaluated pursuant to (e)4 below, but shall receive the RFP. If less than three EOIs are deemed complete, complex procurements shall proceed in accordance with (e)1 above.**

4. [The] **Except as otherwise provided at (e)3 above, the EOIs shall be ranked by the Technical Review Committee on the basis of numerical scores resulting from weighted rating factors. [These factors will be weighted in proportion to their relative importance on a project-by-project basis. The relative weight attributed to each rating factor for a particular project and the ranking methodology shall be set forth in the RFEOL.] In ranking the EOIs, the Technical Review Committee [may] shall consider criteria contained in the RFEOL, including, but not limited to:**

- i. Experience of the **qualified** firm on similar projects **or professional services on similar assignments;**
- ii. Experience of the [Project Manager or Resident Engineer] **project manager or resident engineer** on similar projects;
- iii.-iv. (No change.)
- [v. Approach to the project;]
- v. **Approach and methodology in performing the professional services required;**
- vi. Commitment and ability to perform the proposed work and any outstanding work with the Authority;
- vii. (No change.)
- viii. **Attainment of Small Business Enterprise (SBE) and Disabled Veteran-Owned Business (DVOB) goals; and**
- ix. (No change.)

[5. For simple projects, once the Technical Review Committee has ranked the EOIs, it shall require the top three or more technically ranked firms, which number of firms shall be at the discretion of the Director, to provide their proposed fees in a separate envelope. The firms shall not be told of their ranking position at this time. The selection process shall continue in the manner described in (g) below. If a particular simple project warrants, the Director may elect to issue an RFP and the selection process shall proceed in accordance with the process for complex projects.

6. For complex projects, after the evaluation and ranking of the EOIs, no fewer than the top three ranked firms shall receive an RFP. All firms that are not to receive the RFP shall be notified.

7. When the Authority is seeking to engage more than one firm through a single solicitation of EOIs, following the Technical Review Committee's evaluation of the EOIs, it shall prepare a list of a sufficient number of technically qualified firms to enable the Authority to engage the number of firms identified in the RFEOL. If the Technical Review Committee is unable to prepare a list of technically qualified firms in a sufficient number to negotiate with and engage the number of firms identified in the RFEOL, the Authority shall reduce the number of firms it is seeking to engage through the EOI, and/or reissue the RFEOL in whole or in part. The Technical Review Committee shall negotiate with firms in the same manner as described in (g) below.]

(f) Requests for Proposals (RFPs) shall be evaluated as follows:

1. Responses to the RFP shall be comprised of the technical proposal and fee proposal. The **qualified** firms receiving the RFP shall be directed to submit a detailed fee proposal in a separate sealed envelope at the time of submission of the technical proposal.

2. (No change.)

3. The Technical Review Committee may require an interview and/or presentation by the **qualified** firms with the highest ranked proposals. The Director, in his or her discretion, may waive this requirement for a particular project. Subsequent to the interview and/or presentation, the Technical Review Committee shall revisit its technical ranking of the **qualified** firms, re-score as appropriate, and shall thereupon recommend the highest ranked **qualified** firms to the Director, or the Executive Director if the Director was a member of the Technical Review Committee.

(g) Cost negotiation and final selection shall be as follows:

1. For all projects, upon reviewing the Technical Review Committee's recommendation, the Director or the Executive Director, **as the case may be**, shall either concur with the selections or direct the Technical Review Committee to pursue additional evaluation measures, consistent with the EOI solicitation or RFP, **as the case may be**, which shall be specified, in writing, by the Director or the Executive Director.

2. Once the selections are approved, the selected **qualified** firms' fee proposals will be reviewed by the Technical Review Committee. The Executive Director may add one or more persons to the Technical Review Committee to assist in the negotiation process. Using all fee proposals and the engineer's estimate as a guideline, the Technical Review Committee shall negotiate a fair and reasonable fee with the highest technically ranked **qualified** firm, taking into consideration all relevant factors, including, but not limited to, the estimated value of the services to be rendered and the scope, complexity, and professional nature thereof. If the Technical Review Committee is unable to negotiate a fair and reasonable fee with the highest technically ranked **qualified** firm, it shall formally terminate negotiations and undertake negotiations with the second highest technically ranked **qualified** firm. Failing accord with the second highest technically ranked **qualified** firm, the Technical Review Committee shall formally terminate negotiations and undertake negotiations with the third highest technically ranked **qualified** firm. If the Technical Review Committee is unable to negotiate successfully with any of the three highest technically ranked **qualified** firms, it shall [select additional professional] **negotiate with the next-highest technically ranked qualified** firms, in order of their competence and qualifications and it shall continue negotiations in accordance with the procedure set forth [herein] **in this section** until an agreement is reached. The Executive Director, upon consultation with the Director, may direct the Technical Review Committee to re-solicit the contract. Once a final fee is agreed upon, the Technical Review Committee shall make its recommendation to the Director.

3. The Technical Review Committee, in consultation with the Director, shall prepare a written report outlining its recommendations and activities in reviewing, negotiating, and selecting the recommended **qualified** firm(s). The Director shall submit the Technical Review Committee's report to the Executive Director.

4. If the Executive Director concurs with the recommendation, the Executive Director shall recommend, to the Board, in writing, that the **qualified** firm(s) be [issued] **awarded** an Order for Professional Service.

5. (No change.)

19:9-2.9 Procedure for prequalification and award of contracts for other professional and consultative services

(a)-(b) (No change.)

(c) In the event the Authority determines that it is necessary or advisable to retain professional or consultative services, advertisement for proposals or qualifications shall be placed in an appropriate newspaper or journal having a large circulation in the State, and any appropriate professional periodicals, [and/or] **and** advertised on the Authority's website, [[www.nj.gov/turnpike](http://www.nj.gov/turnpike)] **[www.nita.com](http://www.nita.com)**, or through other electronic means. Such advertisements shall be published not less than seven calendar days preceding the date upon which the proposals or qualifications are to be received and opened. The advertisement shall refer

interested parties to the Request for Proposals or Request for Qualifications (RFP/RFQ), which may be downloaded from the Authority's website, [at [www.nj.gov/turnpike](http://www.nj.gov/turnpike)] [www.njta.com](http://www.njta.com), or requested, in writing, from the Director by mail or electronic means.

(d) (No change.)

(e) Evaluation of proposals or qualifications received shall be as follows:

1. The proposals or qualifications shall be ranked by the Evaluation Committee on the basis of numerical scores resulting from weighted rating factors. These factors will be weighted in proportion to their relative importance on a contract-by-contract basis. In ranking proposals or qualifications, the Evaluation Committee [may] **shall** consider criteria **contained in the RFQ or RFP, as the case may be**, including, but not limited to:

i.-ix. (No change.)

x. Attainment of Small Business Enterprise (SBE) and Disabled Veteran-Owned Business (DVOB) goals; and

xi. (No change.)

2. (No change.)

(f)-(h) (No change.)

19:9-2.12 Procedures to resolve protested solicitations and awards

(a) (No change.)

(b) Upon the filing of a timely protest, the Executive Director or his or her designee shall have the authority, but not the obligation, to conduct a hearing, to settle and resolve a protest of an aggrieved bidder, [offeror] **proposer**, or contractor concerning the solicitation or award of a contract or its prequalification status or classification, with the Executive Director retaining authority for the final decision of the Authority. Any such hearing may be conducted on written submissions, or through an in-person informal conference, as determined in the discretion of the Executive Director, or his or her designee, as deemed necessary based upon the nature of the protest.

(c) (No change.)

(d) A decision [under] **pursuant to** (c) above shall [be] **constitute** a final [and conclusive, unless any person adversely affected by the decision commences an action in court] **agency decision**.

(e) In the event of a timely protest [under] **pursuant to** (a) above, the Authority shall not proceed further with the solicitation, or with the award of the contract until the decision is rendered [under] **pursuant to** (c) above, or until the Executive Director, or his or her designee, after consultation with the Director of Procurement and Materials Management or Chief Engineer, makes a written determination that the continued solicitation or award of the contract without delay is necessary to protect the interest of the Authority or the public.

19:9-2.13 Procurement of routine towing services [and emergency services] on the Roadway

(a) All contracts between the Authority and qualified [service providers] **contractors for routine** towing services on the Turnpike **and Parkway** [(that is, routine towing services and storage services) and for towing and emergency services on the Parkway (that is, routine towing services, storage services and road services) entered into after September 18, 2017.] shall be procured pursuant to the procedures and regulations promulgated [under] **pursuant to** this section. **For purposes of this section, routine towing services on the Turnpike include towing services and storage services. Road services on the Turnpike shall be provided by a separate third-party contractor. Routine towing services on the Parkway include towing services, storage services, and road services.**

(b) The objective of this section is to establish procedures for the award of contracts for [rotational] **routine** towing services on the Turnpike and [towing and emergency services on the] Parkway, **to be provided on a rotational basis**, utilizing a competitive bid process open to prequalified bidders. Contracts shall be awarded to the lowest responsible bidders as determined pursuant to applicable law, including, but not limited to, this subchapter, and the specific requirements contained in all [Requests for Bids (RFB)] **requests for bids** issued by the Authority, from time to time. In issuing [an RFB] **a request for bids**, the Director of Procurement and Materials Management is empowered to procure up to three rotational towers per [service provider location (]Zone[)] on the Turnpike and up to

two rotational towers per Zone on the Parkway, or such other number as may be required in any [RFB] **request for bids**. It is the Authority's intent to solicit bids, as, and when, needed, for specific Zones along the Turnpike and the Parkway. In the case of the Turnpike, the Zones shall be established between specific interchanges, and in the case of the Parkway, the Zones shall be established between specific mileposts, all as more [specifically] **expressly** set forth in the [RFB] **request for bids**.

(c) Only bids submitted by[, towing services and/or towing and emergency services providers who have first been qualified by the Authority] **contractors who have been prequalified** pursuant to a prequalification process[, ] shall be considered. At the discretion of the Director of Procurement and Materials Management, the prequalification process may be accomplished through a combined [Request for Qualifications/Request for Bids] **request for qualifications/request for bids** process or by a separate **prequalification** process preceding the issuance of [an RFB] **request for bids**. Upon award of a contract to the successful bidder(s), the standards governing prequalification shall be of continuing force and effect for the duration of such contract. The failure to maintain the standards of prequalification during the term of any contract awarded to a successful bidder shall be deemed a material breach of the contract.

(d) The criteria to be used by the Authority in determining prequalification shall include the following, the specific requirements of which shall be set forth in the [RFB] **request for prequalification**: reliability, experience, response time, acceptance of credit cards, and prepaid towing contracts; equipment; location and condition of storage facilities[, including, but not limited to, security safeguards for patrons and for] **to safeguard the personal property of patrons and their** towed and stored vehicles; liability and other insurance coverage; safeguards to protect the personal safety of customers, [including, but not limited to,] considerations related to the criminal background of employees; and such other factors as the Authority may deem relevant and which shall be specified in the [RFB] **request for prequalification**. In recognition of the differences between the physical characteristics (for example, number of access and exit ramps) and operational aspects (for example, classes of permitted vehicles) on the Turnpike and the Parkway, the Director of Procurement and Materials Management may establish different specific criteria for prequalification of [service providers] **contractors on each** the Turnpike and [for prequalification of service providers on the] Parkway.

(e) A [towing services and/or towing and emergency services provider deemed qualified by the Authority] **prequalified contractor** shall [thereafter] be entitled to submit a bid in response to [the RFB for which such provider has prequalified] **a request for bids**. Each [RFB] **request for bids** issued by the Authority shall prescribe specific requirements for the **routine** towing services [and/or towing and emergency services] being procured, which may include, at the discretion of the Authority, fixed fees for certain services, and which shall include a provision mandating that [towing services and/or towing and emergency services providers] **contractors** shall not charge patrons any fees for towing services [and/or towing and emergency services] other than those applicable fees that are expressly set forth [in] **at** N.J.A.C. 19:9-3.1 and 3.2.

(f) The provisions [of] **at** N.J.A.C. 19:9-2.1, 2.2, 2.4, and 2.12 shall be applicable to procurements for towing services on the Turnpike and [towing and emergency services on the] Parkway, unless such provisions are inconsistent with the provisions of this section, in which event, the provisions of this subchapter shall govern.

### SUBCHAPTER 3. FEES

19:9-3.1 Towing rates on the Turnpike and the Parkway

(a) Towing rates charged by Authority-authorized companies on the Roadway shall not exceed the following rates or such rates as may be approved and amended by the Board from time to time in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the rules on agency rulemaking, N.J.A.C. 1:30:

1. Class 1 Vehicles (under 7,000 pounds G.V.W.R. (generally, "Passenger Vehicles"), for the purpose of towing rates only):

i. Service charge of [\$116.50] **\$125.75** plus:

(1) [\$4.25] **\$4.50** per mile on the Roadway, up to a maximum fee to tow the vehicle to the Authority-authorized garage facility, including the service charge, of [\$159.00] **\$170.75**;

2. Other classes of vehicles (7,000 pounds and over G.V.W.R.):

i. Class 2 Vehicles (for the purpose of towing rates only, straight truck (up to 15,000 pounds G.V.W.R.), Passenger Vehicle with trailer, or trailer without Passenger Vehicle):

(1) Service charge of [\$214.00] **\$231.00** plus:

(A) [\$4.75] **\$5.00** per mile on the Roadway, up to a maximum, including the service charge, of [\$261.50] **\$281.00**;

ii. Class 3 Vehicles (for the purpose of towing rates only, tractor trailer, bus (over 15,000 pounds G.V.W.R.)), or any vehicle requiring the use of a Landoll tractor trailer:

(1) Service charge of [\$405.00] **\$437.00** plus \$6.00 per mile on the Roadway, up to a maximum, including the service charge, of [\$465.00] **\$497.00**.

iii. Where applicable, the following additional fees may be charged for services to Class 2 or Class 3 Vehicles:

(1) [\$41.00] **\$50.00** for connecting air lines and [\$41.00] **\$50.00** for connecting lights;

(2)-(4) (No change.)

3. Winching and wrecking (all classes of vehicles):

i. [\$151.00] **\$300.00** per hour for a light or medium wrecker;

ii. [\$246.00] **\$525.00** per hour for a heavy wrecker; and

iii. (No change.)

4. Specialized equipment for routine towing services:

i. (No change.)

ii. [\$788.00] **\$1,095** per hour for Rotator 60-ton capacity and up[, and for 50-ton construction crane].

5. Extra heavy duty towing and recovery services, which shall mean [when], as used in this section, the immediate, coordinated, professional response by authorized extra heavy duty towing and recovery service contractors to incidents that have occurred on the Roadway, causing or having the potential to cause serious and lengthy disruption to Roadway operations, specifically, the normal flow of traffic, as determined in the sole discretion of the Authority. These incidents include, but are not limited to, large overturned commercial vehicles such as trucks, buses, or spillage of products that require the use of special heavy duty recovery equipment and expertise to resolve. Extra heavy duty towing and recovery service contractors must provide service under critical time restraints and work under severe pressure in an effort to return the Roadway to normal operating conditions. Recovery equipment must be operated in a team response and coordinated effort, providing the utmost safety and care in the actual operation, which will include, but not be limited to, winching, uprighting of overturned commercial vehicles, towing, and expeditious removal of all vehicles, as well as the expeditious removal of cargo and debris from the affected Roadway. The Authority-authorized extra heavy duty towing and recovery services contractor shall be solely responsible for the removal of all such vehicles, cargo, and debris.

i. Rates for the following extra heavy duty towing and recovery services, chargeable in one-half hour increments by Authority-authorized extra heavy duty towing and recovery services contractors, shall not exceed the following amounts:

Equipment:

...  
60-ton rotator [\$788.00] **\$1,095** per hour  
[50-ton construction crane \$788.00 per hour]  
...

Labor:

Supervisor (Wreck Master) [\$162.00] **\$225.00** per hour (**charges limited to one supervisor per incident**)

Tech Labor (Driver, Rigger) [\$108.00] **\$125.00** per hour

Manual Labor [\$81.00] **\$100.00** per hour

(b) Storage rates charged by Authority-authorized companies shall not exceed the following rates or such rates as may be approved and amended by the Board from time to time in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the rules on agency rulemaking, N.J.A.C. 1:30:

1.-3. (No change.)

**4. Cargo, crash debris, load storage, or vehicle components: \$43.00 per 10 foot by 20 foot space per calendar day.**

19:9-3.2 Road services rates on the Roadway

(a) Road service rates on the Turnpike for Class 1 Vehicles charged by Authority-authorized service companies shall conform with the following rates or such rates as may be approved and amended by the Board from time to time in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the rules on agency rulemaking, N.J.A.C. 1:30:

1. Road service charge: [\$81.00] **\$109.50**;

2.-6. (No change.)

7. Tire repair/replacement services for trucks and buses: The service charge to be charged by a contractor shall not exceed [\$168.00] **\$196.00**. The maximum hourly labor rate shall not exceed [\$101.00] **\$118.00** per hour. The only charges that a contractor may charge a patron are: the service charge bid by the contractor; if applicable, the hourly labor rate bid by the contractor multiplied by the actual time spent by the contractor at the scene, beyond the initial one-half hour, in repairing/replacing tires and/or rims; if applicable, an additional tire service charge of [\$33.50] **\$39.00** for each additional tire change beyond the first tire change; and the retail price of any supplied tires or rims and any other related equipment supplied. No other charges are permitted. The terms "contractor," "service charge," "hourly labor rate," and "additional tire service charge" are defined terms that shall have the meanings set forth in the procurement documents issued by the Authority from time to time for tire repair/replacement services for trucks and buses.

(b) Road service rates on the Parkway for Class 1 Vehicles charged by Authority-authorized towing and emergency service providers shall conform with the following rates or such rates as may be approved and amended by the Board from time to time in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the rules on agency rulemaking, N.J.A.C. 1:30:

1. Road service charge: [\$81.00] **\$109.50**;

2.-6. (No change.)

7. Tire repair/replacement services for trucks and buses: The service charge to be charged by a contractor shall not exceed [\$168.00] **\$196.00**. The maximum hourly labor rate shall not exceed [\$101.00] **\$118.00** per hour. The only charges that a contractor may charge a patron are: the service charge bid by the contractor; if applicable, the hourly labor rate bid by the contractor multiplied by the actual time spent by the contractor at the scene, beyond the initial one-half hour, in repairing/replacing tires and/or rims; if applicable, an additional tire service charge of [\$33.50] **\$39.00** for each additional tire change beyond the first tire change; and the retail price of any supplied tires or rims and any other related equipment supplied. No other charges are permitted. The terms "contractor," "service charge," "hourly labor rate," and "additional tire service charge" are defined terms that shall have the meanings set forth in the procurement documents issued by the Authority from time to time for tire repair/replacement services for trucks and buses.

#### SUBCHAPTER 4. INSPECTION AND OBTAINING OF AUTHORITY RECORDS

19:9-4.1 General provisions

(a) Except as otherwise provided by law, all "public records," as that term is defined [by] in the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. (OPRA), shall be available to any individual for the purpose of inspection or hand copying during regular business hours at the Authority's main offices at 1 Turnpike Plaza, Woodbridge, New Jersey 07095, in accordance with the procedure set forth [in] at N.J.A.C. 19:9-4.3. Other records within the possession of the Authority may be made available for inspection or copying subject to applicable law. For convenience, the Authority recommends that any request made [under] pursuant to this subchapter be made using forms provided by the Authority and available on the Authority's website, [[www.nj.gov/turnpike](http://www.nj.gov/turnpike)] [www.njta.com](http://www.njta.com).

(b) Except as otherwise specified [herein] in this section, copies of records may be obtained [by written request by mail or facsimile to] as follows:



1. By electronic request through the online OPRA form on the Authority's website at [www.njta.com/forms-public-records/opra-form](http://www.njta.com/forms-public-records/opra-form); or

2. By written request by mail or facsimile to:

OPRA Records Custodian  
New Jersey Turnpike Authority  
Law Department  
1 Turnpike Plaza  
PO Box 5042  
Woodbridge, New Jersey 07095  
Fax: 732-750-5384

(c) Copies of accident reports concerning accidents on the Roadway may be obtained through [a link on] the Authority's website at [www.nj.gov/turnpike](http://www.nj.gov/turnpike) [www.njta.com/about/crash-report-request](http://www.njta.com/about/crash-report-request).

(d) Copies of bid documents for contractors and vendors bidding on work, services, or materials may be obtained at [www.bidx.com/njta/main](http://www.bidx.com/njta/main) and shall be obtained at fees established by the Authority to cover printing and distribution costs and published in the advertisement for the receipt of bids, subject to applicable law.

(e) The fees for obtaining Authority records[, which] that are set forth [in] at N.J.A.C. 19:9-4.3, shall be collectable at or before delivery of the documents copied. Payment shall be made by check or money order payable to the New Jersey Turnpike Authority.

#### 19:9-4.2 Procedures for obtaining Authority records

(a) The [General Counsel] Director of Law, or his or her designee, shall review all requests for inspection or copying of public records and shall notify the requesting party of the time and date, or alternative times and dates, that the records will be made available for inspection and copying. If the request is denied, the requesting party will be notified of the denial and the reasons for such denial. All records requests shall be made electronically through the Authority's website, by mail, facsimile, or in person at the [above] applicable address, as specified in this subchapter, during regular business hours or at such other times and/or locations as the [General Counsel] Director of Law deems convenient.

(b) All duplication shall be done by, or at the request of, the Authority, and the charges shall be in accordance with those set forth [in] at N.J.A.C. 19:9-4.3. If it is not practicable for the Authority to copy any document, that document will be copied commercially, and the party requesting the copy shall be charged a fee equal to the Authority's cost for such commercial reproduction.

#### 19:9-4.3 Fees

(a)-(c) (No change.)

(d) The Authority may, in its discretion, prepare responses to requests for traffic and accident statistics. Such requests shall be submitted to the Director of Operations. There shall be a minimum fee of \$50.00 for responses to each such request. For requests [which] that involve more than one [man-hour] work-hour for research, investigation, and/or analysis by Authority employees, the charges shall be on a [man-hour] work-hour basis.

### SUBCHAPTER 5. LICENSES, PERMITS, AND WAIVERS

#### 19:9-5.2 Licenses to cross

(a) A license to cross is a formal agreement with the Authority granting permission to enter upon or access the Roadway or other Authority property. This [normally] access pertains to public and private utilities that must occupy the property under, on, or over the Roadway in order to provide service to the public. [In addition, licenses to cross are utilized by owners of property adjacent to the Roadway that must utilize the Roadway for drainage, egress, and access purposes.]

(b) In order to apply for a license to cross, a fully completed application form, along with [eight] four copies of the engineering plans and specifications, as may be required by the Authority, including, but not limited to, supporting documentation, [such as drainage calculations and luminaire photometrics,] and the required application fee set forth in this section, shall be submitted to:

Finance Department - Accounts Receivable Section  
New Jersey Turnpike Authority

#### 1 Turnpike Plaza, PO Box 5042

Woodbridge, New Jersey 07095

The license to cross application form may be found on the Authority's website, [www.nj.gov/turnpike](http://www.nj.gov/turnpike) [www.njta.com](http://www.njta.com).

(c) The Chief Engineer may approve or reject an application for a license to cross[, subject to the approval of the Executive Director]. License to cross applications shall be evaluated based on the following:

1. Adherence to the [Turnpike] Authority's Standard Specifications, **Procedures Manual, Design Manual, and Traffic Control Manual;**

2.-5. (No change.)

6. The financial health and stability of the applicant; [and]

7. The effect of the proposed crossing on the financial, economic, operational, or engineering aspects of the activities of the Authority, the public, or neighboring property owners[.]; and

**8. Whether the lease of existing Authority infrastructure is a viable alternative to a license to cross.**

(d) An application for a license to cross can be rejected based on a violation of, or non-compliance with, any of the requirements of this section. Competing applications will be assessed based on the requirements of this section and the award will be based on the application that most closely serves the needs of the Authority and the public. Appeals of rejected applications will be addressed using the procedure [outlined in] set forth at N.J.A.C. 19:9-5.5.

(e) All license to cross applications that contemplate entry by or work being performed by the applicant or its contractors or agents on the Roadway shall be accompanied by a completed traffic permit application, in accordance with N.J.A.C. 19:9-5.4. The traffic permit application form may be found on the Authority's website, [www.nj.gov/turnpike](http://www.nj.gov/turnpike) [www.njta.com](http://www.njta.com). No work on the Roadway may be commenced by the applicant or its contractors or agents until the Authority has issued a traffic permit in accordance with the procedures set forth [in] at N.J.A.C. 19:9-5.4.

(f) (No change.)

**(g) The permission granted to occupy the Roadway shall be deemed revocable at the sole discretion of the Authority and shall not be construed to be a grant or conveyance of any interest in land or of any right or interest in property.**

**(h) Except in the case of a public utility, as described at N.J.S.A. 27:23-6, a license to cross licensee will be responsible for all costs associated with relocating any of the licensee's facilities or equipment determined by the Authority to be impeding or interfering with any Roadway improvements or projects.**

#### 19:9-5.3 License to cross fee schedule

(a) The fees [contained] in this section shall apply to all licenses to cross. The Authority reserves the right to waive or reduce the fees in this section. The Executive Director, or his or her designee, upon written request for waiver or reduction of these fees, may waive or reduce the fees upon his or her determination that such waiver or reduction is warranted based on the nature and scope of the project and the justification for waiver or reduction presented in the written request. The determination of the Authority regarding waiver and/or reduction of fees shall be in the sole discretion of the Authority and shall not be subject to appeal. All fees that are required to be submitted in connection with licenses to cross shall be by cashier's check or executed money order made payable to "The New Jersey Turnpike Authority" and sent to the address specified [in] at N.J.A.C. 19:9-5.2(b) with a reference to the license to cross.

(b) Application Fee. A minimum application fee of [\$900.00] **\$6,000** shall be submitted along with the completed license application and associated documents. Such fee shall be non-refundable, whether the Authority's final decision is to issue or deny the required license. The application fee shall be renewed, and another [\$900.00] **\$6,000** application fee shall be paid, if there is a six-month period of application inactivity caused by the applicant. A period of inactivity shall be defined as the time lapsed between written correspondence regarding the application.

(c)-(h) (No change.)

#### 19:9-5.4 Traffic permits

(a) A traffic permit must be issued by the Authority before any person or entity may access or engage in activity within the Roadway not

otherwise authorized by this chapter. The traffic permit application form may be found on the Authority's website, [[www.nj.gov/turnpike](http://www.nj.gov/turnpike)] [www.njta.com](http://www.njta.com). A person or entity wishing to obtain a traffic permit must submit a fully completed traffic permit application and all required supporting documentation to the Authority at least 15 days prior to the date on which access is sought.

(b)-(c) (No change.)

(d) The traffic permit application must be accompanied by the following:

1. Certificates of insurance, indicating the New Jersey Turnpike Authority, its officers, agents, and employees, as an additional insured under the policies, in types and limits deemed by the Authority to be acceptable. The [General Counsel] **Director of Law** reserves the right to amend or increase the types of insurance and limits required based on the activities sought to be permitted;

2. An indemnification and hold harmless agreement signed by the applicant in a form provided by or acceptable to the [General Counsel] **Director of Law**; and

3. (No change.)

(e) Except as otherwise set forth in this chapter, the Director of Operations may approve or reject an application for a traffic permit, which may be approved only if the applicant has met all of the requirements [of] at (c) and (d) above, and the Director of Operations has determined that the permit can be granted without any undue risk to the safety, traffic security, or movement of the Roadway or the Authority's employees or patrons.

(f)-(g) (No change.)

19:9-5.5 Procedure to resolve protested applications for, and awards of, licenses to cross and traffic permits

(a) Any actual or prospective applicant for a license to cross or traffic permit with respect to any Authority property or facility who is aggrieved in connection with the application for and/or award of such a license or permit, may protest to the Authority. The protest shall be submitted, in writing, to the [General Counsel] **Director of Law** within five days after such aggrieved party knows or should have known of the facts giving rise to the grievance. Failure to file a timely protest shall bar any further action. The written protest shall set forth, in detail, the facts upon which the aggrieved applicant bases its protest and shall define, as clearly as the available information permits, those issues or facts in dispute.

(b) Upon the filing of a timely protest, the Executive Director, or his or her designee, shall have the authority, but not the obligation, to conduct a hearing, in order to settle and resolve a protest of an aggrieved applicant, or prospective applicant, concerning the application for, or award of, a license to cross or traffic permit. Any such hearing may be conducted on written submissions, or through in-person informal conference, as determined in the discretion of the Executive Director, or his or her designee, as deemed necessary based upon the nature of the protest.

(c) If the protest is not resolved by mutual agreement, the Executive Director, or his or her designee, shall promptly issue a decision in writing. The decision shall state the determination made and the reasons for the action taken. The decision shall be mailed or furnished promptly to the aggrieved applicant and any other interested party.

(d) (No change.)

(e) In the event of a timely protest [under] **pursuant to** (a) above, the Authority shall not proceed further with the application for, or with the award of, a competing license to cross or traffic permit until the decision is rendered pursuant to (c) above.

19:9-5.6 Film permits

(a) Persons wishing to take photographs, videos, or motion pictures (collectively, "film") on those portions of the Roadway **or any other property** under the Authority's control, **or persons wishing to fly any unmanned aircraft system or vehicle, including, but not limited to, a drone, over the roadway to film**, shall apply for a traffic permit in accordance with the procedures set forth [in] at N.J.A.C. 19:9-5.4, subject to the approval of the Executive Director. The application for a traffic permit to film on the Roadway is found on the Authority's website, [[www.nj.gov/turnpike](http://www.nj.gov/turnpike)] [www.njta.com](http://www.njta.com).

(b)-(c) (No change.)

(d) In the event that a bona fide representative of the news media requires immediate permission to film an emergency situation on the Roadway, the Executive Director, or his or her designee, may grant a permit to film to the news media representative, provided that:

1. (No change.)

2. The Executive Director, or his or her designee, has determined that such filming would not create an unreasonable risk to the safety, traffic security, or movement of the Roadway or the Authority's employees or patrons; and

3. (No change.)

(e) (No change.)

19:9-5.7 Distribution of literature

(a) Literature, other than commercial or advertising literature, may be distributed at service areas of the Roadway, which, for purposes of this section, shall include Park-n-Rides, at the times and places and in accordance with the terms and conditions enumerated [in] at (b) through (1) below.

(b) A person, persons, or organization who desires to distribute literature or conduct a survey at or about a service area shall first file an application for a Certificate of Registration. Applicants shall complete the application form (providing identification and distribution specifics) and a waiver of claims and indemnity form supplied by the Authority. Applicants shall also submit a certificate(s) of insurance, indicating the "New Jersey Turnpike Authority, its officers, agents and employees" as additional insured under the policies, in types and limits deemed necessary by the [General Counsel] **Director of Law**. Certificates will be issued without charge on a first-come, [first serve] **first-served** basis, subject to availability and limitations of space. Certificates shall be issued for not more than one calendar day. Applications may be obtained and submitted and Certificates obtained by mail or in person, on weekdays between 9:00 A.M. and 5:00 P.M., from the [General Counsel] **Director of Law**, New Jersey Turnpike Authority, 1 Turnpike Plaza, Woodbridge, New Jersey 07095, or by facsimile from the [General Counsel] **Director of Law**, New Jersey Turnpike Authority, at 732-750-5384.

(c) (No change.)

(d) Certificate holders shall, at no time, shout, make outcries, use devices for voice or sound amplification, or any other instruments or devices for sound production.

(e)-(l) (No change.)

19:9-5.8 Sale of New Jersey agricultural or horticultural products at Roadway service areas

(a)-(c) (No change.)

(d) Agricultural Products may be sold in those service areas listed [in] at (c) above only during the period from the third Friday in May until the second Sunday in September ("Sale Season") or at other times as permitted by the Authority.

(e) A sale permit must be issued by the Authority before any person or entity may sell any Agricultural Products in accordance with this section. The sale permit application form may be found on the Authority's website, [[www.nj.gov/turnpike](http://www.nj.gov/turnpike)] [www.njta.com](http://www.njta.com). A person or entity wishing to obtain a sale permit for a particular Sale Season must submit a fully completed permit application and all required supporting documentation to the Authority by the March 1 prior to the Sale Season for which the permit is sought. Every permit issued [under] **pursuant to** this section will expire at the end of the Sale Season of the year issued.

(f) Applications for sale permits shall be submitted to:

Director of [Patron Services] **Operations**  
New Jersey Turnpike Authority  
PO Box 5042  
1 Turnpike Plaza  
Woodbridge, New Jersey 07095

(g)-(h) (No change.)

(i) Sale permits shall not be issued to any person or entity that engages in:

1. (No change.)

2. The sale of tobacco or tobacco-related products, **or the sale of any cannabis or cannabinoid product, as defined in the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:61-31 et seq.**

- 3. (No change.)
- 4. The sale of obscene material as defined [by] at N.J.S.A. 2C:34-3; or
- 5. (No change.)
- (j)-(k) (No change.)

19:9-5.9 Miscellaneous permits

Access to the Roadway for activities not prohibited by [the rules] **this chapter** shall be by permit. In the event that the protocol for obtaining any permit is not set forth in this chapter, a request shall be forwarded to the [General Counsel] **Director of Law**. If it is determined to be proper and in the best interest of the Authority, its patrons, and the public to grant such a permit, the Executive Director may grant the permit and impose an appropriate permit fee.

19:9-5.10 Sponsorship program

- (a)-(b) (No change.)
- (c) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

“Highway” means the Garden State Parkway and the New Jersey Turnpike; their shoulders and sidewalks; the airspace above and below the Garden State Parkway and New Jersey Turnpike; areas for drainage, utilities, landscaping, berms, and fencing along the Garden State Parkway and New Jersey Turnpike; and any highway project as defined in section 4 [of] at P.L. 1948, c. 454 (N.J.S.A. 27:23-4).

“Manual of Uniform Traffic Control Devices” or “MUTCD” means the [2009] **11th** edition of the Manual of Uniform Traffic Control Devices for Streets and Highways, as amended and supplemented, issued by the U.S. Department of Transportation, Federal Highway Administration. The MUTCD is available at: <http://mutcd.fhwa.dot.gov/>.

- (d) Sponsorship criteria is as follows:
  - 1. Sponsors shall comply with any State or Federal laws prohibiting discrimination because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, or sex including, but not limited to, New Jersey’s [“]Law Against Discrimination,[“] P.L. 1945, c. 169 (N.J.S.A. 10:5-1 et seq.).
  - 2. The Authority shall not accept the sponsorship of a person or entity engaged in:
    - i. (No change.)
    - ii. The sale of tobacco or tobacco-related products, **or the sale of any cannabis or cannabinoid product, as defined in the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:61-31 et seq.**
    - iii. (No change.)
    - iv. The sale of obscene material as defined [by] at N.J.S.A. 2C:34-3; or
    - v. (No change.)
  - 3. Sponsors determined by the Authority to fall within one or more of the categories set forth [in] at (d)2 above shall not be considered further for sponsorship [under] **pursuant to** the provisions of this section and shall be advised, in writing, of that determination.
- (e)-(f) (No change.)

SUBCHAPTER 6. AUTHORITY RULEMAKING: PETITIONS FOR RULES, OPPORTUNITY TO BE HEARD, AND SUFFICIENT PUBLIC INTEREST

19:9-6.2 Petition for rulemaking: procedure for petitioner

- (a) (No change.)
- (b) A petitioner has the option of providing the text of the proposed new rule, amended rule, or repealed rule with the information [in] at (a) above, although this option is not required.
- (c)-(d) (No change.)

19:9-6.4 Authority’s failure to act on a petition for rulemaking

- (a) If the Authority fails to act in accordance with the time frames set forth [in] at N.J.A.C. 19:9-6.3, the petitioner may request, in writing, a

public hearing on the petition by submitting a request to the Director of the Office of Administrative Law in accordance with N.J.A.C. 1:30-4.3.

(b) If a petitioner requests a public hearing from the Director of the Office of Administrative Law due to the Authority’s failure to adhere to the time frames listed [in] at N.J.A.C. 19:9-6.3, and if the Authority receives notice from the Director of the Office of Administrative Law of his or her intent to hold a public hearing on the petition, the Authority may, within 15 days of receipt of said notice, provide notice of a public hearing.

19:9-6.5 Rulemaking

(a) With respect to any duly authorized rule proposal, which the Authority proposes for adoption pursuant to the provisions [of] at N.J.S.A. 27:23-1 et seq.:

- 1. The Authority shall provide at least 30 calendar days notice of its intended action in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. In addition to the notice requirements set forth [in] at N.J.S.A. 52:14B-4, the Authority shall also publish the notice of proposal on its website, [[www.nj.gov/turnpike](http://www.nj.gov/turnpike)] [www.nita.com](http://www.nita.com), which publication shall act as “other secondary notice.”
- 2. (No change.)

SUBCHAPTER 7. ORGANIZATION OF THE NEW JERSEY TURNPIKE AUTHORITY

19:9-7.1 Authority responsibilities

The Authority is responsible for the design, construction, maintenance, and operation of the Roadway, for related projects designed at N.J.S.A. 27:23-1 et seq., and for such other activities as may be authorized by law.

19:9-7.2 Functions of the departmental units and divisions

(a) The Authority is organized into various departments as shall be determined from time to time by the Executive Director. As of [September 18, 2017] **April 24, 2024**, the Authority is organized into the following functional departments:

- 1.-4. (No change.)
- 5. [Integrated] **Information Technology Services**. This department is responsible for the Authority’s management information and operations management systems. It also is responsible for implementing, maintaining, and monitoring the electronic toll collection functions (E-ZPass®) and the oversight of the related electronic toll collection customer service center and violation processing center. It is headed by the Chief Information Officer.
- 6. (No change.)
- 7. **Law**. This department provides legal services to all departments, including, but not limited to, reviewing contracts, acquisition and disposition of real and personal property, coordination and administration of the Authority’s legal affairs and litigation matters with outside counsel, and ensures compliance with the Authority’s governing statutes, rules, and policies. In addition, this department is responsible for risk management and insurance, Equal Employment Opportunity complaints, and the preparation of the Authority’s Affirmative Action Plan. It is headed by the [General Counsel] **Director of Law**.

[8. **Maintenance**. This department is responsible for the care and maintenance of the Roadway and equipment. It is headed by the Director of Maintenance.]

[9.] **8. Operations**. This department manages all activities related to day-to-day operations, **care, maintenance, and equipment** of the Roadway, including traffic engineering, traffic regulations, emergency services, coordination of construction and maintenance activities, hazardous material response, [customer] **patron safety and services**, the Traffic Management Center, and towing contractors. It is headed by the Director of Operations.

Recodify existing 10.-11. as **9.-10**. (No change in text.)

SUBCHAPTER 8. DEBARMENT, SUSPENSION, AND DISQUALIFICATION FROM CONTRACTING

19:9-8.2 Causes for debarment of a person(s)

- (a) In the public interest, the Authority may debar a person for any of the following causes:

1.-2. (No change.)

3. Violation of Federal or State antitrust statutes, or of the Federal Anti-Kickback Acts (18 U.S.C. § 874[,] and 40 U.S.C. § 276b and c);

4. (No change.)

5. Violation of the [“]New Jersey Law Against Discrimination[“] (P.L. 1945, [c.169] c. 169, N.J.S.A. 10:5-1 et seq., as supplemented by P.L. 1975, [c.127] c. 127), or of the act banning discrimination in public works employment (N.J.S.A. 10:2-1 et seq.), or of the act prohibiting discrimination by industries engaged in defense work in the employment of persons therein ([C.114, L.1942,] N.J.S.A. 10:1-10 et seq.);

6. Violation of any laws governing hours of labor, minimum wage standards, prevailing wage standards, discrimination in wages, child labor, or other labor standards;

7.-14. (No change.)

(b) In the public interest, the Authority may debar a vendor for violation of any of the following prohibitions on vendor activities or for breach of any of the following affirmative obligations:

1. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined [by] at N.J.S.A. 52:13D-[13b]13.b and e, to any officer or employee of the Authority or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined [by] at N.J.S.A. 52:13D-[13i]13.i, of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning [of] at N.J.S.A. 52:13D-[13g]13.g.

2. The solicitation of any fee, commission, compensation, gift, gratuity, or other thing of value by a State officer or employee, special State officer or employee, or Authority officer or employee from any vendor shall be reported, in writing, forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.

3. Unless a waiver has been granted in accordance with (b)4 below, no vendor may, directly or indirectly, undertake any private business, commercial, or entrepreneurial relationship with, whether or not pursuant to employment, contract, or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee, special State officer or employee, or Authority officer or employee having any duties or responsibilities in connection with the purchase, acquisition, or sale of any property or services by or to any state agency or any instrumentality thereof, or with any person, firm, or entity with which he or she is employed or associated or in which he or she has an interest within the meaning [of] at N.J.S.A. 52:13D-[13g]13.g.

4. Any relationship subject to the provisions [of] at (b)3 above shall be reported, in writing, forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee, special State officer or employee, or Authority officer or employee upon a finding that the present or proposed relationship does not present the potential, actual, or appearance of a conflict of interest.

5.-6. (No change.)

19:9-8.3 Conditions affecting the debarment of a person(s)

(a) The following conditions shall apply concerning debarment:

1. (No change.)

2. The existence of any of the causes set forth [in] at N.J.A.C. 19:9-8.2 shall not necessarily require that a person be debarred. In each instance, the decision to debar shall be made within the discretion of the Board, unless otherwise required by law, and shall be rendered in the best interests of the Authority.

3. All mitigating factors shall be considered in determining the seriousness of the offense, failure, or inadequacy of performance and in deciding whether debarment is warranted.

4. The existence of a cause set forth [in] at N.J.A.C. 19:9-8.2(a)1 through 8 shall be established upon the rendering of a final judgment or conviction, including, but not limited to, a guilty plea or a plea of [nolo contendere] *nolo contendere* by a court of competent jurisdiction or by an administrative agency empowered to render such judgment. In the event an appeal taken from such judgment or conviction results in reversal

thereof, the debarment shall be removed upon the request of the debarred person unless other cause for debarment exists.

5. The existence of a cause set forth [in] at N.J.A.C. 19:9-8.2(a)9 through 12 and (b) shall be established by evidence which the Authority determines to be clear and convincing in nature.

6. Debarment for the cause set forth [in] at N.J.A.C. 19:9-8.2(a)13 shall be proper, provided that one of the causes set forth [in] at N.J.A.C. 19:9-8.2(a)1 through 12 or (b), or an equivalent cause under the jurisdiction of the original debarring agency or governmental entity, was the basis for debarment by the original debarring agency or governmental entity. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts adduced by the Authority.

19:9-8.4 Procedures, period of debarment, and scope of debarment affecting the debarment of a person(s)

(a) (No change.)

(b) Notwithstanding the requirements set forth [in] at (a) above, where another department or agency of the State of New Jersey has imposed debarment upon a party, the Authority may also impose a similar debarment without affording an opportunity for a hearing, provided that the Authority furnishes notice of the proposed similar debarment to the party, and affords that party an opportunity to present information on his or her behalf to explain why the proposed similar debarment should not be imposed in whole or in part.

(c) Debarment shall be for a reasonable, finite period of time, which shall not exceed an initial period of five years. If the Authority determines, in its discretion, that after the expiration of the initial period of debarment an additional period of debarment is warranted, such additional debarment period shall be permitted, provided that notice thereof is furnished and the party is afforded an opportunity to contest the proposed further debarment in accordance with the procedures set forth [in] at (a) above. Such additional period of debarment shall be for a reasonable, finite period of time, which shall not exceed five years.

(d) (No change.)

(e) A debarment may include all known affiliates of a person, provided that each decision to include an affiliate is made on a [case by case] **case-by-case** basis after providing that affiliate an opportunity to contest such proposed debarment in accordance with the procedure set forth [in] at (a) above.

19:9-8.5 Causes for suspension of a person(s)

In the public interest, the Authority may suspend a person for any cause specified [in] at N.J.A.C. 19:9-8.2 or upon reasonable suspicion that such cause exists.

19:9-8.6 Conditions for suspension of a person(s)

(a) The following conditions concerning suspension are to be adhered to:

1.-3. (No change.)

4. Reasonable suspicion of the existence of cause described [in] at N.J.A.C. 19:9-8.2(a)1 through 8 may be established by the rendering of a final judgment or conviction by a court or administrative agency of competent jurisdiction, by grand jury indictment, or by evidence that such violations of civil or criminal law did in fact occur.

5. A suspension invoked by another agency or authority or commission of the State of New Jersey or of the United States for any of the causes described [in] at N.J.A.C. 19:9-8.2 may be the basis for the imposition of a concurrent suspension by the Authority.

19:9-8.7 Procedures, period of suspension, and scope of suspension affecting the suspension of a person(s)

(a) The Authority may suspend a person, or his or her affiliates, provided that within 10 days after the effective date of the suspension, the Authority provides such party with a written notice stating:

1.-4. (No change.)

(b)-(c) (No change.)

19:9-8.9 Disqualification of a person(s) as bidder

(a) The Authority reserves the right to disqualify or refuse to receive a proposal from a prospective bidder even though the prospective bidder is prequalified, and even though the prospective bidder has not been

debarred or suspended, or reject a proposal after having received same for any of the following reasons:

1. Lack of competency or lack of adequate machinery, plant, or other equipment;
2. (No change.)
3. Failure to pay, or satisfactorily settle, all bills due for labor, equipment, or material on previous contracts;
4. Failure to comply with any prequalification requirements, bid specifications, or regulations of the Authority;
- 5.-9. (No change.)
10. Any cause specified [in] at N.J.A.C. 19:9-8.2 or upon reasonable suspicion that such cause exists.

(b) A prospective bidder may also be disqualified pursuant to N.J.A.C. 19:9-2.2. Nothing in this subchapter shall be deemed to affect, change, or limit the requirements set forth [in] at N.J.A.C. 19:9-2.2.

SUBCHAPTER 9. ELECTRONIC TOLL COLLECTION MONITORING SYSTEM

19:9-9.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...  
 "Lessee" means any person, corporation, firm, partnership, agency, association, or organization that rents, leases, or contracts for the use of a vehicle and has exclusive use of the vehicle for any period of time.

...  
 "Lessor" means any person, corporation, firm, partnership, agency, association, or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease, or other contract that provides the lessee with the exclusive use of the vehicle for any period of time.

"Operator" means the term "operator" as defined [in] at N.J.S.A. 39:1-1.

"Owner" means the term "owner" as defined [in] at N.J.S.A. 39:1-1.

"Toll collection monitoring system" means a vehicle sensor, placed in a location to work in conjunction with a toll collection facility, that produces one or more photographs, [one or more microphotographs, a videotape or] other recorded images, or a written record, of a vehicle at the time the vehicle is used or operated in violation of the toll collection monitoring system rules. The term shall also include any other process that identifies a vehicle by photographic, electronic, or other method.

"Toll collection monitoring system rules" means the rules [contained] in this subchapter and authorized and adopted pursuant to N.J.S.A. 27:23-34.2 that prohibit a vehicle from making use of the Roadway except upon the payment of such tolls as may from time to time be prescribed by the Authority and that further makes it a violation subject to a civil penalty for any person to refuse to pay, to evade, or to attempt to evade the payment of such tolls, if the violation is recorded by a toll collection monitoring system as defined [in] at N.J.S.A. 27:23-34.1.

"Vehicle" means the term "vehicle" as defined [in] at N.J.S.A. 39:1-1.

19:9-9.2 Toll collection monitoring system violation

(a) No owner, operator, lessor, or lessee shall refuse to pay, evade, or attempt to evade the payment of the toll for passage of a vehicle on a Roadway, unless an exemption exists for the payment of the required toll. Except as provided [in] at N.J.S.A. 27:23-[34.3(b)]**34.3.b**, an owner of a vehicle shall be jointly and severally liable for the failure of an operator of the vehicle to comply with the toll collection system monitoring rules. The owner of a vehicle shall be liable if the vehicle was used or operated by the operator with the express or implied permission of the owner when the violation of the toll collection system monitoring rules was committed, and the evidence of the violation is obtained by a toll collection monitoring system. An owner of a vehicle shall not be liable if the operator of the vehicle has been identified and charged with a violation of N.J.S.A. 27:23-25 for the same incident.

(b) Within the time period specified [in] at N.J.S.A. 27:23-34.3, the Authority or its agent may send an Advisory and Payment Request to the owner of the violating vehicle by regular mail as provided for [in] at P.L. 1997, [c.59] **c. 59**. Upon receipt of the Advisory and Payment Request, the owner of the violating vehicle shall pay to the Authority or its agent, the proper toll and an administrative fee in the amount of \$50.00 per violation or such other amount as may be established by duly adopted rule; provided, however, that an owner that proves an inadvertent toll violation has occurred shall be required only to pay the toll and shall not incur the administrative fee. If the owner fails to pay the required toll and fee by the number of days specified [in] at N.J.S.A. 27:23-34.3 from the date on which the Advisory and Payment Request was sent, the owner shall be subject to the penalties described herein. The Authority or its agent may cause additional Advisory and Payment Requests to be issued in regard to the unresolved violation.

(c) (No change.)

(d) The Advisory and Payment Request shall contain information advising the person named of the manner in which he or she may contest the liability alleged in the Advisory and Payment Request or assert that liability should not attach in a given instance due to circumstances that caused an inadvertent toll violation to occur. Such Advisory and Payment Request shall also contain notice that failure to pay the indicated toll and administrative fee or failure to successfully contest the liability will render the owner subject to the penalties described [in] at N.J.A.C. 19:9-3.

(e)-(g) (No change.)

(h) The Authority may adopt a form of [contract ("subscription] agreement[") which] **that** may set forth the terms and provisions that govern the responsibilities, duties, and obligations of an owner or operator as a subscriber to the ETC System, which [subscription] agreement may include the termination of the owner or operator as a [subscriber] **user** of the [Authority's] ETC System if the owner or operator fails to comply with the terms and provisions of the [subscription] agreement.