April 21, 2023

SUBJECT: REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL SMALL BUSINESS ENTERPRISE (SBE) PATH ORIGIN AND DESTINATION SURVEY SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2023-2028 (RFP# 6000001505)

Dear Sir or Madam:

The Port Authority of New York and New Jersey (the "Authority") is seeking Proposals in response to this Request for Proposals (RFP) for a Consultant to provide expert professional SBE Port Authority Trans-Hudson Corporation (PATH) origin and destination survey services as requested on a "call-in" basis during 2023 through 2028.

The scope of services to be performed by you is set forth in Attachment A to the Authority's standard agreement (the "Agreement") included herewith. You should carefully review this Agreement as it is the form of agreement that the Authority intends that you sign in the event of acceptance of your Proposal and forms the basis for the submission of Proposals. At its discretion, the Authority may retain multiple firms for performance of the subject services.

PRE-PROPOSAL MEETING

A virtual Pre-Proposal Meeting will held virtually on Monday, May 1, 2023 from 11:00 A.M. to 12:00 P.M. and can be accessed via the following link: Click here to join the meeting

I. PROPOSER REQUIREMENT:

The Authority will consider only those firms who are able to demonstrate compliance with the following minimum qualification requirement:

A. Firm must have, at the time of Proposal submission, a minimum of two (2) years' experience in origin and destination survey services of similar size and complexity to the contemplated services as stated in the Attachment A, in the past eight (8) years.

B. Firm must be certified as an SBE by the Authority prior to the proposal due date.

A determination that a Proposer meets the foregoing requirements is no assurance that the Proposer will be selected for performance of the subject services. Firms that do not meet these requirements shall not be considered.

II. PROPOSAL FORMAT REQUIREMENTS:

To respond to this RFP, the Proposer shall submit a concise Proposal in response to the following basic criteria:

A. To be acceptable, this Proposal shall be no more than **20** pages, using 12 point or greater font size, not including resumes. This page limit pertains only to Letters G and H in Section III, below. Each resume shall be a maximum of two pages, using 12 point or greater font size. The Proposal pages shall be numbered. The outermost cover of your submittal must be labeled to include the RFP Number and title as indicated in the "Subject" above, full legal name of your firm and your firm's Port Authority Vendor ID number.

If your firm is not a registered vendor with the Port Authority, please visit https://www.paprocure.com/irj/portal to create an account and receive a Port Authority Vendor ID number.

For further instructions for creating a Port Authority Vendor ID number and answers to frequently asked questions please visit: https://www.paprocure.com/irj/servlet/prt/portal/prtroot/pcd!3aportal_content!2fcom.panynj.fld_Anonymous!2fcom.panynj.ivw_supp_registration_id.

B. Separate each section of the Proposal with a tab divider that is labeled in accordance with the letter of the requirements specified below in Section III.

C. In each submission to the Authority, the Proposer shall use its **FULL LEGAL NAME WITHOUT ABBREVIATIONS**. Failure to comply with requirement may lead to delays in contract awards and contract payments, which shall be the responsibility of the Proposer.

D. <u>The Port Authority has transitioned to an entirely digital submission process for the receipt of proposals in response to this RFP using the Bonfire platform, located at the link below.</u>

Proposers must register and create a free Bonfire account at the provided link in order to log in and download the referenced solicitation and associated information, and in order to upload proposal submissions. Registration on the Bonfire platform requires a registration that is separate and distinct from all other Authority software platforms.

The Authority shall accept only those proposals in electronic format for which the submission or modification is completed at the time of the Proposal Due Date. Proposal submissions will be accepted by upload only, at https://panynj.bonfirehub.com/portal/?tab=login and must be uploaded and received by the Authority **no later than 2:00 P.M. Eastern Time (ET) on May 12, 2023.** Emailed submissions, hand deliveries and mailed deliveries (e.g., UPS, USPS) will not be accepted.

Proposal submissions must be uploaded, submitted and finalized prior to the Proposal Due Date. Proposers are strongly urged to allow sufficient time of at least one (1) day prior to the Proposal Due Date to begin the uploading process and finalizing the Proposal submission. Proposers will receive an email confirmation receipt with a unique confirmation number once a Proposal submission is finalized.

Proposers will be permitted to submit modifications to Proposals or withdraw previously submitted Proposals electronically up to, but not after, the time of the Proposal Due Date.

E. Interested Subconsultants are encouraged to add your firm to Port Authority certified Subconsultant's list for this RFP using the following link: https://www.panynj.gov/port-authority/en/business-opportunities/solicitations-advertisements/professional-services.html. Prime proposers can access Subconsultants information by using the same link.

III. <u>SUBMISSION REQUIREMENTS</u>:

To respond to this RFP, provide the following information:

A. In the front of your Proposal, provide a copy of Attachment B (Agreement on Terms of Discussion) signed by an officer of your company. If proposing as a joint venture, each firm in the joint venture must sign a copy of Attachment B.

B. Complete a copy of Attachment C (Company Profile).

C. Transmittal Letter

Submit the transmittal letter, on letterhead, signed by an authorized representative, demonstrating compliance with the aforementioned "Proposer Requirement" as noted in Section I above. For all projects referenced, include the name of the company, a contact person and current telephone number for verification purposes.

In addition, include a statement indicating whether the Proposer is proposing as a single entity, or as a joint venture.

1. If a common-law joint venture submits a proposal, all participants in the joint venture shall be bound jointly and severally and each participant shall execute the proposal. If a single-entity proposer cannot demonstrate that it meets all of the referenced qualifications, then the single-entity proposer may, with others, form a joint venture and request that the joint venture be deemed to be the Proposer (i.e., members of the joint venture may meet the qualification requirement collectively).

2. If the Proposer is a joint venture, the joint venture's Proposal shall contain an executed teaming agreement or, alternatively, if the entities making up the joint venture proposer have not executed a teaming agreement, the joint venture's proposal shall contain a summary of key terms of the anticipated agreement. If the joint venture proposer is a consortium, partnership or any other form of a joint venture, or an association that is not a legal entity, the proposal shall include a letter signed by each member indicating a willingness to accept joint and several liability until the point at which a corporation, limited liability company or other form of legal entity is formed for the purposes of undertaking the Agreement.

D. Provide the "multipliers" referred to in subparagraph 7A of the accompanying Standard Agreement, including a breakdown of said multiplier, indicating all of the multiplier's components (e.g. vacation, holiday, sick pay, workers' compensation, office rent, insurance, profit).

E. Staff Qualifications and Experience

In this section, detail the experience of key individuals (including subconsultant(s), if any) to be responsible for the successful completion of the contemplated services. Attach a detailed resume for each key individual that includes their relevant experience and specific areas of expertise. The resumes should contain their education, professional credentials and clearly identify the years of experience in the field related to the tasks for which the individual will be responsible.

F. Include the name(s), title(s) and hourly rate(s) that would be in effect at the start of the Agreement term for professional and technical personnel of the Prime Proposer who will be assigned to perform any services requested. Indicate billing rates for partners or principals and actual hourly rates for all other billable employees. Provide a company policy for compensation for premium pay (i.e. holidays, shift differentials, regular days,

weekends and night work or union required payments must be included. **Please use the provided attachment labeled "Exhibit I – Salary Schedule" as a template.** Typical job titles may include, but are not limited to, the following:

1. Principal or Partner (Billing Rate)
2. Project Manager (Actual Hourly Rate)
2. Professional Personnel (Actual Hourly Rate)
3. Technical Personnel (Actual Hourly Rate)

G. Firm Qualifications and Experience

Identify the experience of your firm in providing services similar to those contemplated herein. Identify comparable services performed during the last eight (8) years, owners, contact information (for verification purposes), and indicate whether said projects were completed on schedule and within budget.

H. Technical Approach

The extent to which the Proposer, and the managerial and supervisory personnel proposed to be dedicated to this program have experience in implementing and managing similar services in a similar environment using staff comparable in size to that necessary for the services to be provided.

I. Management Approach

Provide your proposed management approach to performing the contemplated services. Factors addressed in your management approach shall include, but are not limited to, your proposed approach to being responsive to the client's needs, keeping the client apprised of the project status, and ensuring the quality of the work product. Prepare an organization chart for the contemplated services that identifies the key individuals, their titles, their firm and office address, their functions, task responsibility and reporting relationships, if any.

J. Your attention is directed to Paragraph 21 of the Agreement in which the Authority has stated the Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBE) goals for participation in this program. In order to facilitate the meeting of these goals, the Consultant shall use every good faith effort to utilize subconsultants who are Authority-certified MBEs or WBEs to the maximum extent feasible. A listing of certified MBE/WBE firms is available at https://www.panynj.gov/port-authority/en/business-opportunities/supplier-diversity/directories-of-MWBE.html.

For each Task Order to perform work issued under this Agreement, the selected Consultant(s) shall submit to the Authority for review and approval prior to commencing any services, along with invoices, the Statement of Subcontractor Payments in the form of the MBE/WBE Participation Report (Form PA 3760C), which may be downloaded at https://www.panynj.gov/port-authority/en/business-opportunities/Vendor-Resources.html.

The MBE/WBE Plan submitted by the Consultant to the Authority shall contain, at a minimum, the following:

- Identification of MBE/WBEs: Provide the names and addresses of all MBE/WBEs included in the Plan. If none are identified, describe the process for selecting participant firms in order to achieve the good faith goals under this Agreement.

- Level of Participation: Indicate the percentage of MBE/WBE participation expected to be achieved with the arrangement described in the Plan.
- Scope of Work: Describe the specific scope of work the MBE/WBEs will perform.

All MBE/WBE sub-consultants listed on the MBE/WBE Participation Plan must be certified by the Authority in order for the Consultant to receive credit toward the MBE/WBE goals set forth in this Agreement. Please go to https://www.panynj.gov/port-authority/en/business-opportunities/supplier-diversity.html to search for MBE/WBEs by a particular commodity or service. The Authority makes no representation as to the financial responsibility of these firms or their ability to perform work under this Agreement.

Subsequent to Agreement award, all changes to the MBE/WBE Participation Plan must be submitted via a modified MBE/WBE Participation Plan to the Manager for review and approval by OBDCR. For submittal of modifications to the MBE/WBE Plan, Consultants are directed to use form PA3760D. The Consultant shall not make changes to its approved MBE/WBE Participation Plan or substitute MBE/WBE sub-consultants or suppliers for those named in their approved plan without the Manager's prior written approval. Unauthorized changes or substitutions, including performance of work designated for a sub-consultant by the Consultant's own forces, shall be deemed a violation of this section. Progress toward attainment of MBE/WBE participation goals set forth herein will be monitored by the Authority throughout the duration of the Agreement.

The Consultant shall also submit to the Project Manager, along with invoices, the Statement of Subcontractor Payments in the form of the MBE/WBE Participation Report, which may be downloaded at https://www.panynj.gov/port-authority/en/business-opportunities/Vendor-Resources.html. The Statement must include the name and business address of each MBE/WBE sub-consultant and supplier actually involved in the Agreement, a description of the work performed and/or the product or service supplied by each such subcontractor or supplier, the date and amount of each expenditure, and such other information as it may assist the Project Manager in determining the Consultant's compliance with the foregoing provisions.

Prompt Payment/Retainage

The Consultant agrees to pay each subconsultant under this Agreement, for satisfactory performance of its subcontract, no later than ten (10) days from the receipt of each payment the Consultant receives from the Authority. The Consultant agrees further to return retainage payments, if any, to each subconsultant within ten (10) days after the subconsultants' work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the Authority.

MBE/WBE Conditions of Participation

MBE/WBE participation will be counted toward meeting the MBE/WBE agreement goal, subject to all of the following conditions:

1. Commercially Useful Function: An MBE/WBE is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of work on a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved in accordance with normal industry practice. Regardless of whether an arrangement between the Consultant and the MBE/WBE represents standard industry practice, if the arrangement erodes the ownership, control or independence of the MBE/WBE or in any other way does not meet the commercially useful function requirement, that firm shall not be included in determining whether the MBE/WBE goal is met and shall not be included in MBE/WBE reports. If this occurs with respect to a firm identified as a MBE/WBE, the Consultant will receive no credit toward the MBE/WBE goal and may be required to backfill the participation. An MBE/WBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction or contract through which funds are passed in order to obtain the appearance of MBE/WBE participation. An MBE/WBE may rebut a determination by the Authority that the MBE/WBE is not performing a commercially useful function to the Authority.

2. Work Force: The MBE/WBE must employ a work force (including administrative and clerical staff) separate and apart from that employed by the Contractor, other Subcontractors on the Contract, or their Affiliates. This does not preclude the employment by the MBE/WBE of an individual that has been previously employed by another firm involved in the Contract, provided that the individual was independently recruited by the MBE/WBE in accordance with customary industry practice. The routine transfer of work crews from another employer to the MBE/WBE shall not be allowed.

3. Supervision: All work performed by the MBE/WBE must be controlled and supervised by the MBE/WBE without duplication of supervisory personnel from the Consultant, other subconsultants on the agreement, or their Affiliates. This does not preclude routine communication between the supervisory personnel of the MBE/WBE and other supervisors necessary to coordinate the work.

Counting MBE/WBE Participation

The value of the work performed by an MBE/WBE, with its own equipment, with its own forces, and under its own supervision will be counted toward the goal, provided the utilization is a commercially useful function. An MBE/WBE prime contractor shall still provide opportunities for participation by other MBE/WBEs. Work performed by

MBE/WBEs will be counted as set forth below. If the Authority determines that some or all of the MBE/WBEs work does not constitute a commercially useful function, only the portion of the work considered to be a commercially useful function will be credited toward the goal.

1. Subconsultants: One hundred percent (100%) of the value of the work to be performed by an MBE/WBE subconsultant will be counted toward the MBE/WBE goal. The value of such work includes the cost of materials and supplies purchased by the MBE/WBE, except the cost of supplies or equipment leased from the Consultant, other subconsultants or their affiliates will not be counted. When a MBE/WBE subcontracts part of the work of its contract to another firm, the value of the subconsultant work may be counted toward MBE/WBE goals only if the MBE/WBE subconsultant is itself a MBE/WBE. Work that a MBE/WBE subcontracts to a non-MBE/WBE firm does not count toward MBE/WBE goals.

2. Material Suppliers: Sixty percent (60%) of the expenditure to a MBE/WBE material supplier will be counted toward the MBE/WBE goal. Packagers, brokers, manufacturer's representatives, or other persons who arrange or expedite transactions are not material suppliers within the meaning of this paragraph.

3. Broker's/Manufacturer's Representatives: One hundred percent (100%) of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees for transportation charges for the delivery of materials or supplies provided by an MBE/WBE broker/manufacturer's representative will be counted toward the MBE/WBE goal, provided they are determined by the Authority to be reasonable and not excessive as compared with fees or commissions customarily allowed for similar services. The costs of materials and supplies themselves will not be counted.

4. Services: One hundred percent (100%) of fees or commissions charged by an MBE/WBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of the work will be counted toward the MBE/WBE goal, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.

5. Joint Venture: Joint ventures between MBE/WBEs and non-MBE/WBEs may be counted toward the MBE/WBE goal in proportion to the total dollar value of the Agreement equal to the distinct, clearly defined portion of the work of the contract that the MBE/WBE performs with its own forces. Contact OBDCR at (201) 395-3958 for more information about requirements for such joint ventures.

J. Provide a complete list of your firm's affiliates.

K. If the Proposer or any employee, agent or subcontractor of the Proposer may have, or may give the appearance of, a possible conflict of interest, the Proposer shall include in its proposal a statement indicating the nature of the conflict. The Authority reserves the right to disqualify the Proposer if, in its sole discretion, any interest disclosed from any source could create, or give the appearance of, a conflict of interest. The Authority's determination regarding any question(s) of conflict of interest shall be final.

Proposers are advised that, while not currently anticipated, nothing herein shall preclude the Authority from determining at a subsequent point in time during performance of the services contemplated hereunder that a circumstance gives rise to the existence of, or the appearance of, a conflict of interest, and thereby concluding that a firm(s) selected for performance of the subject services is/are expressly precluded from continuing the performance of the services and/or participating in other procurement opportunities for any project on which the firm has provided such services. Proposers are directed to Paragraph 34 of the attached Standard Agreement. Proposers are further advised that under this Agreement, firms must provide, upon receipt of a Task Order issued by the Port Authority, written notice to the Port Authority of any existing or potential conflict of interest the firm(s) may have in the performance of Services under this Agreement.

L. The selected Consultant(s) shall comply with the requirements of the Agreement. You should therefore not make any changes in this standard agreement, nor restate any of its provisions in your Proposal or supporting material.

IV. SELECTION PROCESS:

The qualifications-based selection shall take into consideration the following technical criteria (listed in order of importance) and subsequently cost, as appropriate:

A. qualifications and experience of the staff proposed to perform services hereunder;

B. qualifications and experience of the firm, including the quality of similar services provided to others including the demonstrated ability to complete the services in accordance with the project schedule;

C. technical approach of the firm proposes to perform the services; and

D. management approach to the performance of the contemplated services.

After consideration of these factors, the Authority may enter into negotiations with the firm(s) deemed best qualified, in terms of the forgoing technical criteria, to perform the required services.

V. ADDITIONAL INFORMATION:

The Port Authority embraces a workplace where the values of diversity and inclusion support varying perspectives and backgrounds to produce a richer environment.

The Port Authority expects all our consultants, contractors and vendors, to demonstrate a similar commitment, and undertake every effort to ensure their project teams represent the diverse makeup of the communities in and around the Port District.

If your firm is selected for performance of the subject services, the agreement you will be asked to sign will include clauses entitled "Certification of No Investigation (Criminal Or Civil Anti-Trust), Indictment, Conviction, Debarment, Suspension, Disqualification and Disclosure Of Other Information" and "Non-Collusive Proposing, and Code Of Ethics Certification; Certification Of No Solicitation Based On Commission, Percentage, Brokerage, Contingent or Other Fees." By submitting a proposal, the Consultant shall be deemed to have made the certifications contained therein unless said Consultant submits a statement with its proposal explaining why any such certification(s) cannot be made. Such a submission shall be submitted

in a separate envelope along with your proposal clearly marked "CERTIFICATION STATEMENT."

It is Authority policy that its consultants, contractors and vendors comply with the legal requirements of the States of New York and New Jersey. Your attention is therefore called to New York State's requirements that certain consultants, contractors, affiliates, subcontractors and subcontractors' affiliates register with the New York State Department of Taxation and Finance for the purpose of collection and remittance of sales and use taxes. Similarly, New Jersey requires business organizations to obtain appropriate Business Registration Certificates from the Division of Revenue of the State's Department of the Treasury.

Proposers are also advised that additional vendor information, including but not limited to forms, documents and other related information, may be found on the Authority website at www.panynj.gov or https://www.panynj.gov/port-authority/en/business-opportunities/Vendor-Resources.html.

After a review of all proposals received, the Authority will forward two (2) copies of the Agreement and Attachment A thereto to the selected firm(s) who shall sign and return both copies. Signature shall be by a corporate officer. The return of one copy executed by the Authority will effectuate the Agreement.

Should you have any questions, please contact Jessica Smith, Solicitation Manager, at JLSmith@panynj.gov. All such correspondence must have your name, title, company, mailing address, telephone number, and state "RFP **6000001505**" in the subject line. The Authority must receive all questions no later than 4:00 P.M. EST, seven (7) working days before the RFP due date. Neither Ms. Smith, nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate. For RFP updates and Addenda, if any, Proposers are encouraged to access, and monitor, the Authority website at https://www.panynj.gov/port-authority/en/business-opportunities/solicitations-advertisements/professional-services.html. You should, therefore, monitor the advertisement on said website, as appropriate, to ensure you are aware of changes, if any.

Proposal preparation costs are not reimbursable by the Authority. The Authority shall have no obligation to a firm except under a duly authorized agreement executed by the Authority.

No rights accrue to any Proposer except under a duly authorized agreement for performance of the specified services.

The Authority reserves the right, in its sole and absolute discretion, to reject all Proposals, to undertake discussions and modifications with one or more Consultants, to waive defects in Proposals, and to proceed with that Proposal or modified Proposal, if any, which in its judgment will, under all the circumstances, best serve the public interest.

PERFORMANCE OF EXPERT PROFESSIONAL
ORIGIN AND DESTINATION SURVEY SMALL BUSINESS ENTERPRISE (SBE)
SERVICES AS REQUESTED
ON A "CALL-IN" BASIS DURING 2023-2028 FOR THE
PORT AUTHORITY TRANS-HUDSON CORPORATION

I. BACKGROUND

For background with respect to The Port Authority of New York and New Jersey (the Authority"), see www.panynj.gov. Additionally, the most recent electronic version of the Authority's Annual Report is available at http://corpinfo.panynj.gov/pages/annual-reports/.

The Port Authority Trans-Hudson Corporation (PATH) operates a heavy rail rapid transit system that serves as the primary transit link between Manhattan and New Jersey's Hudson and Essex Counties. PATH has 13 stations and operates 24 hours a day, seven days a week. PATH operates five lines on weekdays (Monday to Friday) and two lines on weekends. For weekday service: one line operates 24 hours, three lines operate from approximate 6:00 AM to approximately 11:00 PM, and one line operates from approximately 11:00 PM to approximately 6:00 AM. For weekend service, two lines operate 24 hours on Saturday and Sunday.

PATH also oversees and manages the Journal Square Transportation Center Bus Station (JSTC BS), located in Journal Square, Jersey City, NJ. The JSTC BS is a major connector to local transit operators including PATH. Given the proximity of PATH stations and the JSTC BS to desirable destinations, PATH is also a driver of regional economic development and serves as a transfer link to and from other regional transit providers.

The PATH Passenger Origin-Destination (O-D) Survey is an important data source for the demographics and travel characteristics of PATH passengers by entry station, day-of-week, time-of-day, and station origin-destination pair. The data obtained from the survey provides important inputs required to satisfy PATH's reporting obligations to the Federal Transit Administration (FTA) and the Federal Railroad Administration (FRA) and is also used by PATH as input to internal studies and analysis. PATH has conducted several Passenger O-D surveys in the past with the latest survey being completed in 2018. The proposed PATH Passenger O-D Survey will build on the successes of the previous surveys and will add controls to improve the quality of the survey results.

II. SCOPE OF WORK

The services of the Consultant(s) shall generally consist of providing expert professional origin and destination surveys to support PATH' s strategic planning, business decisions, market research, federal mandates and Title VI compliance, and project development efforts. Tasks shall include performing O-D surveys throughout the PATH system, data collection and analyses, and preparing draft and final reports as required to document services performed, and presentations as required to document findings, recommendations. Tasks to be performed by the Consultant(s) may include but not be limited to:

1. Meet with PATH staff and others as required to assist with developing the project scope.

2. Coordinate facility visits with PATH' s Project Manager (PM) prior to the commencement of the service(s) required hereunder.
3. Obtain information required to satisfy PATH reporting obligations to the FTA.
4. Determine demographics of PATH passengers, including but not limited to home location, household income and size, race, ethnicity, and language.
5. Determine usage of fare media type and fare product
6. Determine travel characteristics of PATH passengers by entry station, day-of-week, time-of-day, and station origin-destination pair, for current (surveyed) trip, including but not limited to trip purpose; trip origin; trip destination; boarding, transfer (where applicable) and exiting PATH stations, access and egress modes to/from PATH stations and trip frequency.
7. Determine station entry for prior trip on PATH.
8. Compile and analyze collected data. All data will be made available to PATH in specified format as per each individual task order. Field work will be collected as directed by PATH.
9. Submit deliverables (reports and presentations) to PATH in Draft format for review and comment. Incorporate PATH comments, as required, and resubmit as Final.

It is generally assumed that the PATH Passenger O-D survey will be an intercept survey conducted at PATH stations using tablet-based survey instruments. The Consultant may, however, propose alternative methods for administration of the survey.

II. DESCRIPTION OF CONSULTANT'S TASKS

TASK A: REVIEW OF RELEVANT PATH DATA REPORTS

It is expected that the methodology and survey questionnaire to be used for the PATH Passenger O-D Survey would allow for the comparison of the findings from the 2018 Passenger O-D Survey. In this regard, the Consultant shall review the 2018 PATH Passenger O-D Survey reports and, where applicable, identify areas for improvements to the methodology and/or questionnaire used in those surveys. The Consultant shall also review other relevant PATH reports, data and relevant information, (e.g.: PATH Monthly Ridership Report of station entries; PATH Average Hourly Turnstile Count Summary Report; PATH service maps and schedules; etc.) to learn about PATH rail service, transfer stations; station usage and ridership.

The Consultant may request copies of the 2018 PATH Passenger O-D Survey Report and its appendix from PATH.

TASK A: Minimum Required Deliverables

Provide a Technical Memorandum describing the review of PATH data and previous survey questionnaire and report. The Technical Memorandum shall include but not be limited to a description of how the available PATH data would be used; and areas/issues identified from the previous survey report and questionnaire that would be potential candidates for improvements in the proposed 2023 surveys.

TASK B: Minimum Required Deliverables for Quality Assurance/Quality Control (QA/QC) Plan.

It shall be the Consultant's responsibility to develop and implement quality control procedures to ensure data of a high quality is obtained from the study. The quality control procedures shall include not be limited to the conduct of the intercept surveys; supervision of field staff; methodology for tracking number of daily completes to ensure that the desired number is achieved in a timely manner; and data analysis.

TASK B: Minimum Required Deliverables

1. Provide a Technical Memorandum detailing the QA/QC Plan.
2. The Consultant shall also be required to provide interim updates on the implementation of the QA/QC plan and any issues affecting or which may affect data quality. These updates shall be included in each project meeting.

TASK C: SURVEY METHODOLOGY

The Consultant shall provide a detailed description of the survey methodology for each survey. This shall include but not be limited to the description of the sampling plan, how the sample size would be determined, and the media/method which would be used to administer the survey. The Consultant shall provide pros and cons for each selected survey method and comparison to other readily available methods, where applicable.

The sampling plan shall allow for the stratification of PATH customers by station of entry, day-of-week, time-of-day period, and station origin-destination pair. The population size shall be obtained from PATH observed passenger entry data and the time-of-day periods shall be as follows:

- weekdays AM peak period (7:00 AM-9:29 AM)
- weekdays midday period (9:30 AM-4:29 PM)
- weekdays PM peak period (4:30 PM-6:59 PM)
- weekdays other off-peak period (7:00 PM to 6:59 AM next day)
- Saturdays
- Sundays

The sample sizes should allow for 95% confidence that the stratified samples are representative of the travelling population at each entry station with a margin of error of +/-5%. The number of participants recruited for the surveys should be large enough to allow for non-response and incomplete responses.

TASK C: Minimum Required Deliverables

Provide a Technical Memorandum detailing the survey methodology and sampling plan.

TASK D: DEVELOP SURVEY INSTRUMENTS

The Consultant shall collaborate with PATH in preparation of the survey questions. The survey questionnaire and report from the 2018 PATH Passenger O-D Survey shall be used as a reference and jumping-off point for the preparation of the survey questions for the 2023 PATH Passenger O-D Survey. The Consultant, in collaboration with PATH staff, shall provide improvements to the questions from the previous surveys and include additional survey questions, where necessary, to satisfy the objectives of the study.

It is assumed that the PATH Passenger O-D survey would be an intercept survey conducted at PATH stations using tablet-based survey instruments. In this regard, the Consultant shall be responsible for the provision and security of all the tablets required for the study.

The Consultant's responsibility shall include but not be limited to acquiring the tablets for use during the study; installation of all software applications necessary to conduct the survey, including any necessary programming and provisioning of the survey questionnaire in the prescribed five languages; distribution of the tablets to the survey staff; and security of the tablet. The Contractor shall obtain adequate insurance to cover any loss or damage to tablets, or any injury resulting from the use of the tablets, for the duration of the contract.

TASK D: Minimum Required Deliverables

1. Provide the survey questionnaires to be used for the 2023 PATH Passenger O-D Survey.
2. Demonstrate the use of the survey instruments on the tablets, in the prescribed five languages.
3. A technical memo detailing the development of the survey questionnaire.

TASK E: SURVEY ADMINISTRATION

Task E.1 Survey Implementation Plan:

The Consultant shall develop a plan for implementation of the surveys. The plan shall include how the surveys would be conducted and schedules for the pilot surveys and the main surveys. The plan shall also describe how the Consultant shall monitor the conduct of the survey including how the number of completes is monitored over time to ensure that the required sample sizes are satisfied by station, day-of-week, time-of-day and direction of travel. The Consultant shall conduct additional surveys, if necessary to meet the desired sample size, at no additional cost to PATH.

The Consultant shall request PATH permission to conduct a reconnaissance of PATH station platforms, fare areas and the JSTC-BT facilities. Requests shall be submitted in writing at least one week prior to the date of the Consultant's planned activity at PATH facilities.

Task E.2 Written Permission and Security Clearance to Conduct Survey Activity:

The Consultant shall obtain written permission and security clearance from PATH to conduct any of the survey activities at PATH facilities. When requesting permission, the Consulting shall include the dates and full names of all survey personnel who will be interacting with PATH customers on PATH facilities. The Consultant shall also provide the phone number(s) of the person(s) supervising the onsite survey activities.

Task E.3 Recruitment and Training of Surveyors:

The contractor shall be responsible for the recruiting and training of the field staff who shall conduct the intercept survey. The contractor may request the use of PATH's conference room facilities for conducting the training. The contractor shall coordinate with the PATH project manager to agree on a suitable date(s) and time(s) for accommodation of the training session(s).

Task E.4 Pilot Survey:

Prior to the main survey, the Consultant shall conduct a pilot survey to test the survey instruments and the survey procedures. The pilot tests shall be conducted in each of the survey languages. The Consultant shall, in collaboration with PATH, review the results of the pilot surveys and make any necessary adjustments to the survey instruments and survey procedures before the main survey is conducted.

Task E.5 Main Surveys:

The Consultant shall collect the survey data using the approved methods proposed in Task 3. The Consultant shall closely monitor the progress of the survey to ensure that the number of complete surveys satisfy the desired sample size and sample stratifications and are representative of in-bound and out-bound O-D trip pairs.

TASK E: Minimum Required Deliverables

1. Provide separate Technical Memoranda detailing the following:
    - The survey implementation plan for both the pilot survey and the main survey.
    - Training plan for survey field staff.
    - Implementation and findings from the pilot surveys.
    - Implementation of the main surveys, including any data collection issues.
    - Provide datasets containing the data collected from the pilot survey.
    - Provide weekly updates on the progress of the survey and the number of completes broken down by entry station, day-of-week, time-of-day, and O-D pair, with comparisons to the desired sample size. The weekly updates shall also include any identified or expected concerns that may impact the quality or quantity of the survey data collection and the steps that will be taken to address those issues.

TASK F: DATA TABULATION AND ANALYSIS METHODOLOGY

The Consultant shall describe how the survey data shall be tabulated, cleaned, weighted, and analyzed. The methodology shall describe how data quality and data integrity shall be maintained throughout the project from data collection to final analysis. The Consultant shall also provide dummy tabulations specifying table titles, field names and key performance variables that would be tabulated.

TASK F: Minimum Required Deliverables

Provide a Technical Memorandum detailing the data tabulation and analysis methodology for each survey.

TASK G: DATA PROCESSING

The Consultant shall collect, process, and analyze the data. The Consultant shall deliver both the raw unprocessed data and the final processed data.

TASK G: Minimum Required Deliverables

1. Provide the raw unprocessed dataset from the pilot survey and the main survey.
2. Provide the final processed dataset from the main survey.
3. Provide data dictionary, and code book where applicable, for all data sets.
4. Provide any computer programming scripts, (e.g. SPSS scripts, Python script, etc.) used for data processing and analysis.

TASK H: REPORTING

Task H.1 Draft Final Report and Presentation

The Consultant shall produce a Draft Final Report for review by PATH staff. The consultant shall also make a PowerPoint presentation of the key findings from the survey.

The Draft Final Report shall contain an Executive Summary, and all necessary tables, charts, appendices, and sections describing all aspects of the survey (including but not limited to survey methodology, questionnaire design, sampling, survey implementation and administration, data tabulation (weighted and unweighted), data weighting and data analysis) to allow the reader to clearly understand and interpret the contents of the report and the findings of the survey. The Consultant shall review the 2018 PATH O-D Survey Report and Appendix to be familiar of the depth of analysis and information that is expected for the reporting of the survey findings.

The Draft final report shall also include information in the following areas:

1. 2023 PATH Passenger O-D Survey:
    - PATH customer demographics
    - PATH travel characteristics including: trip purpose; trip frequency; day-of-week, time-of-day of travel; origin and destination stations; access and egress modes; payment type usage; origins and destinations; entry, exit stations and transfer stations; home location; entry station of prior trip on PATH.
    - Lessons learnt that could be of benefit during the next PATH Passenger O-D survey.

Task H.2 Final Report

The Consultant shall respond to comments made by PATH staff during the review of the Draft Final Report and produce a Final Report containing any necessary changes resulting from the comments from PATH staff.

TASK H Minimum Required Deliverables

1. For each progress meeting, provide a Progress Report detailing the project status.
2. Provide the Draft Final Report, Presentation and the associated PowerPoint presentation file, (within four weeks of completion of survey interviews).
3. Provide the Final Report, (within two weeks of receipt of PATH staff comments on the Draft Final Report).

TASK I: PROGRESS MEETINGS AND PRESENTATION

The consultant shall organize and manage bi-weekly meetings with PATH staff to discuss project progress. Progress report technical memoranda shall describe the current status of the project compared to the approved project schedule. Progress report technical memoranda shall also include details about the work completed to date, work currently in progress, and issues or challenges, if applicable.

TASK I: Minimum Required Deliverables

1. For each progress meeting, provide a Progress Report detailing the project status.
2. Provide an updated progress schedule.

III. Additional Requirements

File Formats – Files shall be delivered in any of the following formats:

a. Data files:
   - Microsoft Excel file formats: .xlsx; .xlsb
   - Comma Separated Value file format: .csv
   - SPSS file formats: .sav; .zsav

b. Report, technical memorandum and other text-based documents:
   - Microsoft Word: docx
   - PDF Document format: .PDF

c. Presentation files:
   - Microsoft PowerPoint: .pptx; .pptm

d. Computer Programming Scripts:
   - Plain text files, with appropriate file extension.
   - Jupyter Notebook files

IV. Use of Materials

All reports, studies, data, analyses, etc. provided and produced in support of this project shall be the property of the Port Authority of New York and New Jersey and are not to be reproduced or utilized in any way for any purposes without the prior written consent of the Port Authority.

V. Project Management and Schedule:

Work on the project shall commence immediately upon receipt of PATH's approval of the Consultant's proposal. The Consultant shall create and maintain a Project Schedule showing planned and actual start and end dates and milestone dates for each task, each sub-task and each deliverable.

The consultant shall provide the contact details for their Project Manager. The Consultant's Project Manager shall work with PATH's Project Manager to facilitate the smooth and timely completion of all tasks. The consultant shall inform PATH within 24 hours of any staffing changes in the person identified as their Project Manager or any person in a key position that would impact the organization and/or delivery of the approved scope of services.

The Consultant shall obtain written permission and security clearance from PATH to conduct any of the survey activities at PATH facilities. When requesting permission, the Consulting shall include the dates and full names of all survey personnel who will be interacting with PATH customers on PATH facilities. The Consultant shall also provide the phone number of the person supervising the onsite survey activities.

All survey work must be completed by the end of May 2023.

VI. Quality Assurance/Quality Control:

As part of the proposal preparation effort, the Consultant shall prepare and submit a Quality Assurance and Control (QA/QC) Plan. This plan will include: (1) general (firm wide)

QA/QC policies and procedures; (2) a project-specific plan. Similar documents are required for each sub-Consultant that will be engaged in the study. The project-specific QA/QC plan will spell out how the Consultant will communicate with any sub-consultants and how their plans will be coordinated. At a minimum, the prime and sub-consultant QA/QC Plans shall include the following:

- A schedule of meetings to be conducted, both internally (including with any sub-consultants) and with PATH.
- A schedule of field inspections and supervision to be provided.
- A detailed description of any training that will be provided to the survey field staff. PATH can assist the Consultant with accommodating the training at PATH's JSTC facility.
- Details of how field supervisors will coordinate and communicate with field survey staff.
- The process for daily monitoring of the number of completed surveys by entry station, day-of-week , time-of-day, and station O-D pair to ensure that the desired sample sizes are obtained.
- The process for preventing, identifying and addressing any quality lapses or deficiencies at any stage in the project, such as to minimize the compromising of data and to prevent recurrence.

The Port Authority/PATH shall monitor the implementation of the Consultant(s) and sub-consultants' QA/QC Plans and the consultant shall be required to provide documentation during the project that demonstrates that the QA/QC procedures are being followed.

VII. Task Order Request Minority Participation Clause:

MBE/WBE participation goals may be subject to change during the duration of this program and any options or extensions thereof. Any new participation goals determined by the Authority shall be applicable to and considered a part of the Agreements under this program. The current participation goals will be posted on the Authority's website at https://www.panynj.gov/business-opportunities/become-vendor.html as PA Form 4250, "MBE/WBE Participation-Professional Services Call-In". Consultants must consult PA 4250 prior to proposing on any task orders issued under this program.

VIII. Conditions and Precautions

1. General

   The Consultant shall immediately inform PATH of any unsafe condition discovered at any time during the course of this work.

   All traffic on any PATH site shall always have priority over any and all of the Consultant's operations.

2. Work Areas

   The Consultant shall limit its work to the areas necessary for the performance of such work and shall not interfere with the operation of any facility without first obtaining specific approval from PATH.

The Consultant shall not permit any objects or pieces of equipment to lie unattended on platforms, sidewalks, roadways, or structures at any time.

3. Work Hours

   The Consultant shall coordinate the work at the site(s) with PATH' s Project Manager.

   Analytical and professional work shall be performed at PATH facilities between the hours of 8:00 A.M. and 4:30 P.M., Monday through Friday, unless otherwise directed by PATH.

   The Consultant shall cease work upon request from PATH' s Project Manager (or designee) and reschedule work, as needed, due to an event affecting PATH riders.

   In any case, no work shall be performed at PATH Facilities on a legal holiday of either the State of New York or the State of New Jersey, unless approved by PATH.

ATTACHMENT B

REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL SMALL BUSINESS ENTERPRISE (SBE) PATH ORIGIN AND DESTINATION SURVEY SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2023-2028 (RFP# 6000001505)

AGREEMENT ON TERMS OF DISCUSSION

The Port Authority's receipt or discussion of any information (including information contained in any proposal, vendor qualification(s), ideas, models, drawings, or other material communicated or exhibited by us or on our behalf) shall not impose any obligations whatsoever on the Port Authority or entitle us to any compensation therefor (except to the extent specifically provided in such written agreement, if any, as may be entered into between the Port Authority and us). Any such information given to the Port Authority before, with or after this Agreement on Terms of Discussion ("Agreement"), either orally or in writing, is not given in confidence. Such information may be used, or disclosed to others, for any purpose at any time without obligation or compensation and without liability of any kind whatsoever. Any statement which is inconsistent with this Agreement, whether made as part of or in connection with this Agreement, shall be void and of no effect. This Agreement is not intended, however, to grant to the Port Authority rights to any matter, which is the subject of valid existing or potential letters patent.

Any information (including information contained in any proposal, vendor qualification(s), ideas, models, drawings, or other material communicated or exhibited by us or on our behalf) provided in connection with this procurement is subject to the provisions of the Port Authority Public Records Access Policy adopted by the Port Authority's Board of Commissioners, which may be found on the Port Authority website at: http://corpinfo.panynj.gov/documents/Access-to-Port-Authority-Public-Records/. The foregoing applies to any information, whether or not given at the invitation of the Authority.

_____
(Company)

_____
(Signature)

_____
(Title)

_____
(Date)

ORIGINAL AND PHOTOCOPIES OF THIS PAGE ONLY.
DO NOT RETYPE.

ATTACHMENT C

COMPANY PROFILE

REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL SMALL BUSINESS ENTERPRISE (SBE) PATH ORIGIN AND DESTINATION SURVEY SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2023-2028 (RFP# 6000001505)

1. Company Legal Name as shall appear in the Agreement (print or type):

_____

2. Business Mailing Address:

_____

_____

3. Business Telephone Number: _____

4. Firm website: _____

5. Federal Employer Identification Number (EIN): _____

6. Date (MM/DD/YYYY) Firm was Established: _____/_____/_____

7. Name, Address and EIN of Affiliates or Subsidiaries (use a separate sheet if necessary):

_____

_____

8. Officer or Principal of Firm, Title, and email address:

_____

9. Name, telephone number, and email address of contact for questions:

_____

_____

10. Is your firm a registered vendor with the Port Authority? ☐ Yes ☐ No

    If yes, please provide your Vendor ID number: _____

11. If applicable, indicate whether your firm is certified by the Authority in any of the below categories. Please also attach a copy of your Authority certification as a part of this profile.

☐ Minority Business Enterprise (MBE)	☐ Women-owned Business Enterprise (WBE)	☐ Small Business Enterprise (SBE)
☐ Disadvantaged Business Enterprise (DBE)	☐ Service-disabled Veteran-owned Business Enterprise (SDVOB)	

If your firm is an MBE/WBE/SBE/DBE/SVOB not currently certified by the Authority, see the Authority's website – https://www.panynj.gov/port-authority/en/business-opportunities/supplier-diversity/certification.html, to receive information and apply for certification.

Note: Company Legal Name shall be identical to the firm's name in the EIN. Failure to comply with this requirement may lead to delays in contract awards and contract payments.

PORT AUTHORITY NY NJ
AIR LAND RAIL SEA

Lillian D. Valenti
Chief Procurement Officer

P.A. AGREEMENT # *-**-***
DATE

FIRM
ADDRESS
CITY, ST ZIP

Attention: CONTACT, TITLE

SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL ** SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 20** THROUGH 20****

Dear Mr./Ms. CONTACT:

1. The Port Authority of New York and New Jersey (the "Authority" or "Port Authority") hereby offers to retain FIRM NAME (the "Consultant" or "you") to provide expert professional services as more fully set forth in Attachment A, which is attached hereto and made a part hereof, on a "call-in" basis during 20** through 20**.

The Authority does not guarantee the ordering of any services under this Agreement and specifically reserves the right, in its sole discretion, to use any person or firm to perform the type of services required hereunder.

This Agreement shall be signed by you and by the Authority's Chief Procurement Officer. As used herein, "the Director" shall mean the ******* of the Authority, or their duly authorized representatives.

For the purpose of administering this Agreement, the Director has designated DAR NAME, TITLE, to act as their duly authorized representative. The Project Manager for this project is NAME, tel. (***) ***-****, or e-mail address: ****@panynj.gov.

2. Time is of the essence. Your services shall be performed as expeditiously as possible and at the time or times required by the Director.

3. In response to a request for specific services hereunder and prior to the performance of any such services, you shall submit, in writing, to the Director for approval, an estimated cost and staffing analysis of such services. You shall begin performing services under this Agreement upon your receipt of the Director's written (1) approval of such cost and (2) direction to proceed. At the point at which your expenditures for such services reach such approved estimated cost, you shall not continue to render any such services. Preparation of cost estimates and staffing analysis mentioned in this paragraph and in Paragraph 6 shall not be a compensable service hereunder.

4. In order to effectuate the policy of the Authority, the services provided by the Consultant shall comply with all provisions of federal, state, municipal, local and departmental laws, ordinances, rules, regulations, and orders which would affect or control said services as if the services were being performed for a private corporation, unless the Authority standard is more stringent, in which case the Authority standard shall be followed, or unless the Consultant shall receive a written

notification to the contrary signed by the Director personally, in which case the requirements of said notification shall apply.

5. The Consultant shall meet and consult with Authority staff as requested by the Director in connection with any service to be performed herein. All items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Director. The Director may disapprove if, in his/her sole opinion said items are not in accordance with the requirements of this Agreement, accepted professional standards, or are impractical, uneconomical or unsuited in any way for the purpose for which the contemplated construction or services is intended. If any of the said items or any portion thereof are so disapproved, the Consultant shall forthwith revise them until they meet the approval of the Director, but the Consultant will not be compensated under any provision of this Agreement for performance of such revisions. No approval or disapproval or omission to approve or disapprove, however, shall relieve the Consultant of its responsibility under this Agreement to furnish the requested services in accordance with an agreed upon schedule, and in accordance with professional standards.

6. You shall not continue to render services under this Agreement after the point at which the total amount to be paid to you hereunder (including reimbursable expenses) reaches the combined total of each of the approved estimated costs, unless you are specifically authorized in writing to so continue by the Director. If no such authorization is issued, this Agreement shall be terminated without further obligation by either of the parties as to services not yet performed, but you shall be compensated as hereinafter provided for services already completed. It is understood, however, that this limitation shall not be construed to entitle you to the above amount as a minimum compensation.

7. As full compensation for all your services and obligations in connection with this Agreement, the Authority will pay you the total of the amounts computed under subparagraphs A, B, C, D, and E below, subject to the limits on compensation and provisions set forth in Paragraphs 3 and 6 above. Subject to the terms and conditions below, travel time is not reimbursable under subparagraphs A, B, and C hereunder.

A. For work performed at the Consultant's offices, the Consultant will be compensated at an amount equal to ***.**** times the actual salaries paid by you to professional and technical personnel (but not partners or principals) for time actually spent by them in the performance of services hereunder; for work performed at Authority office(s), as mutually agreed upon, the Consultant will be compensated at an amount equal to ***.**** times the actual salaries paid by you to professional and technical personnel (but not partners or principals) for time actually spent by them in the performance of services hereunder, plus an amount equal to the number of hours actually spent by partners and principals in the performance of services hereunder times the billing rate (no multiplier applied) described below but in each case excluding premium payments for overtime work or night work or for performing hazardous duty. Attached hereto is a schedule of actual salaries and titles of technical staff or other permanent professional and technical personnel employed by you, as well as rates customarily billed for partners and principals on projects such as this. Said staffing analysis shall clearly indicate any of your employees, proposed by you to perform the requested services that are former Authority employees. For compensation purposes under this Agreement, no said salary or amount shall exceed the salary or amount received by said personnel or rate customarily billed for a partner or principal as of the effective date of this

Agreement unless the Director has been notified in advance, in writing, of the increased salary, rate or amount and approves the increase.

At the Authority's discretion, in lieu of the compensation terms set forth in Section 7.A. above, Task Orders may be issued whereby lump sum compensation is required. Those lump sum Task Order requests will include terms and conditions with respect to compensation, and you shall be required to submit a staffing analysis. For Task Order requests issued whereby the terms and conditions as stated in Section 7.A. above apply, the attached approved salary schedule, or any previously Authority-approved salary increase shall prevail.

The Consultant shall verify that its employees, subconsultants, or subcontractors working under this Agreement are legally present and authorized to work in the United States, as per the federally required I-9 Program. Furthermore, upon request of the Authority, the Consultant shall furnish, or provide the Authority access to federal Form I-9 (Employment Eligibility Verification) for each individual hired by the Consultant, performing services hereunder. This includes citizens and noncitizens.

The Authority reserves the right to interview and approve any and all personnel, amounts, billing rates and salaries of said personnel performing services under this Agreement. Any costs incurred by the Consultant pertaining to interviews of prospective personnel, if any, are not billable to the Authority. When requesting salary or billing rate adjustments for one or more of its personnel, the Consultant shall submit his/her name, title, current direct hourly rate or billing rate, proposed new direct hourly salary or billing rate, resulting percentage increase, effective date and reason for the requested change, setting forth in detail any increased cost to the Consultant of providing the services under this Agreement which has given rise to the request for increased salary. For adjustments submitted after the effective date of this Agreement, the Authority will grant an increase only if the Consultant demonstrates compliance with all of the following conditions: that increases in salary, or partner's or principal's billing rate or amount, are a) in accordance with the program of periodic merit and cost of living increases normally administered by it, b) warranted by increased costs of providing services under this Agreement, c) based upon increases in salaries and billing rates which are generally applicable to all of Consultant's clients and d) in accordance with the Authority's salary rate increase policy for the current year for Authority employees possessing comparable skills and experience. If, during any calendar year, Authority limits are not available to the Consultant in a timely fashion, increases falling within such limits may be approved retroactively, as appropriate. The amount of increase in salary or billing rate, if any, to be applicable under this Agreement will in all cases be finally determined by the Director or their designee, in their sole and absolute discretion.

Notwithstanding the above, the multipliers set forth in this subparagraph shall be applied only in the case of personnel other than partners or principals who are permanent employees.

B. The Consultant will be compensated at an amount equal to the premium payments for overtime work or night work or for performing hazardous duty, actually paid to professional and technical employees, but not partners or principals, for time actually spent by them in the performance of services hereunder when such overtime or other premium payments have been demonstrated to be in accordance with the Consultant's normal business practice will be reimbursed by the Authority when they have been authorized in advance by the Director in writing. The Project Manager for the Authority shall have the right to authorize and approve premium payments up to a total amount of one thousand dollars ($1,000) per occasion. Payments above said

total amount shall be subject to the prior written authorization of the Director. Such premium payments to supervisory employees, who do not receive such payments in the Consultant's normal business practice will not be given under this Agreement.

C. The Consultant will be compensated at an amount equal to the amounts actually paid to subconsultants hereunder who have been retained after the written approval by the Director of the subconsultant and the compensation to be paid the subconsultant. The Consultant shall submit a copy of the terms and conditions of the subconsultant's compensation (including multiplier, if applicable), as well as an estimate of the number of hours required by the subconsultant to perform their services, as part of any request for approval of the subconsultant.

D. The Consultant will be compensated at an amount equal to the out-of-pocket expenses, approved in advance by the Director, necessarily and reasonably incurred and actually paid by you in the performance of your services hereunder. Out-of-pocket expenses are expenses that are unique to the performance of your services under this Agreement and generally contemplate the purchase of outside ancillary services, except that for the purpose of this Agreement, out-of-pocket expenses do include amounts for long distance telephone calls, rentals of equipment, travel and local transportation and meals and lodging on overnight trips.

The Authority will pay an amount approved in advance by the Director and computed as follows for the reproduction of submittal drawings, specifications and reports:

1) If the Consultant uses its own facilities to reproduce such documents, an amount computed in accordance with the billing rates the Consultant customarily charges for reproduction of such documents under agreements such as this, or

2) If the Consultant uses an outside vendor for the reproduction of such documents, the actual, necessary and reasonable amounts for the reproduction of such documents.

The Authority will not pay for expenses that are usually and customarily included as part of the Consultant's overhead. For the purposes of this Agreement out-of-pocket expenses do not include amounts for typing, utilization of computer systems, computer aided design and drafting (CADD), cameras, recording or measuring devices, flashlights and other small, portable equipment, safety supplies, phones, telephone calls, electronic messaging including Fax, or expendable office supplies. Unless otherwise indicated, required insurance is not a reimbursable expense.

When the Consultant uses its personal vehicle to provide services within the Port District, the Consultant will be reimbursed for travel expenses beyond normal commuting costs at a rate not higher than the Annual Federal Mileage Reimbursement Rate (as determined by the United States General Services Administration (GSA) – *http://www.gsa.gov/portal/content/100715* per mile traveled by auto.

When the Consultant is asked to provide services outside the Port District, the actual cost of transportation as well as the cost for hotel accommodations and meals will be reimbursable hereunder when approved in advanced in writing by the Director. The cost for all meals and lodging on approved overnight trips is limited to the amounts established by the United States GSA for that locality.

GSA Domestic Rates: *http://www.gsa.gov/portal/category/21287*

You shall obtain the Director's written approval prior to making expenditures for out-of-pocket expenses in excess of one thousand dollars ($1,000) per specific expenditure and for all overnight

trips, which are reimbursable expenditures as set forth above. You shall substantiate all billings for out-of-pocket expenses in excess of twenty-five dollars ($25) with receipted bills and shall provide said receipts with the appropriate billing.

E. As used herein:

"Port District" is a geographical area of about 1,500 square miles in the States of New York and New Jersey, centering about New York Harbor. The Port District includes the Cities of New York and Yonkers in New York State, the cities of Newark, Jersey City, Bayonne, Hoboken and Elizabeth in the State of New Jersey and over 200 other municipalities, including all or part of seventeen counties, in the two States.

"Salaries paid to employees" or words of similar import means salaries and amounts actually paid (excluding payments or factors for holidays, vacations, sick time, bonuses, profit participations and other similar payments) to professional and technical employees of the Consultant for time actually spent directly in the performance of technical services hereunder and recorded on daily time records which have been approved by the employee's immediate supervisor, excluding the time of any employee of the Consultant to the extent that the time of such employee of the Consultant is devoted to typing/word processing, stenographic, clerical or administrative functions. Such functions shall be deemed to be included in the multipliers referred to in Subparagraph A above.

8. You shall keep, and shall cause any subconsultants under this Agreement to keep, daily records of the time spent in the performance of services hereunder by all persons whose salaries or amounts paid thereto will be the basis for compensation under this Agreement as well as records of the amounts of such salaries and amounts actually paid for the performance of such services and records and receipts of reimbursable expenditures hereunder and, notwithstanding any other provision of this Agreement, failure to do so shall constitute a conclusive waiver of any right to compensation for such services or expenses as are otherwise compensable hereunder. The Authority will have the right to audit all such records.

The Authority will have the right to inspect your records, and those of your subconsultants, pertaining to any compensation to be paid hereunder, such records to be maintained by you and your subconsultants for a period of three years after completion of services to be performed under this Agreement.

9. On or about the fifteenth (15^{th}) day of each month, you shall render a bill for services performed and reimbursable out-of-pocket expenses incurred in the prior month, accompanied by such records and receipts as required, to the Project Manager. Each invoice shall bear your taxpayer number and the purchase order number provided by the Director. Upon receipt of the foregoing, the Director will estimate and certify to the Authority the approximate amount of compensation earned by you up to that time. As an aid to you, the Authority will, within thirty (30) days after receipt of such certification by the Director advance to you by check the sum certified minus all prior payments to you for your account.

10. The Authority may at any time for cause terminate this Agreement as to any services not yet rendered, and may terminate this Agreement in whole or in part without cause upon three (3) days' notice to you. You shall have no right of termination as to any services under this Agreement without just cause. Termination by either party shall be by written notice, which may be electronic,

with required acknowledgment of receipt by the receiving party. Should this Agreement be terminated in whole or in part by either party as above provided, you shall receive no compensation for any services not yet performed; but if termination is without fault on your part, the Authority will pay you as the full compensation to which you shall be entitled in connection with this Agreement the amounts computed as above set forth for services completed to the satisfaction of the Director through the date of termination, minus all prior payments to you.

11. Under no circumstances shall you or your subconsultants communicate in any way with any consultant, contractor, department, board, agency, commission or other organization or any person, whether governmental or private in connection with the services to be performed hereunder except upon prior written approval and instructions of the Director, provided, however that data from manufacturers and suppliers of material shall be obtained by you when you find such data necessary, unless otherwise instructed by the Director.

12. Any services performed for the benefit of the Authority at any time by you or on your behalf, even services in addition to those described herein, even if expressly and duly authorized by the Authority, shall be deemed to be rendered under and subject to this Agreement (unless referable to another express written, duly executed agreement by the same parties), whether such additional services are performed prior to, during or subsequent to the services described herein, and no rights or obligations shall arise out of such additional services.

13. No certificate, payment (final or otherwise), acceptance of any work nor any other act or omission of the Authority or the Director shall operate to release you from any obligations under or upon this Agreement, or to estop the Authority from showing at any time that such certificate, payment, acceptance, act or omission was incorrect or to preclude the Authority from recovering any money paid in excess of that lawfully due, whether under mistake of law or fact or to prevent the recovery of any damages sustained by the Authority.

14. Original contract drawings, originals of technical specifications, estimates, reports, records, data, charts, documents, renderings, computations, computer tapes or disks, and other papers of any type whatsoever, whether in the form of writing, figures or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of the Authority, and the Authority will have the right to use or permit the use of them and of any ideas or methods represented by them for any purpose and at any time without compensation other than that specifically provided herein. The Consultant hereby warrants and represents that the Authority will have at all times the ownership and rights provided for in the immediately preceding sentence free and clear of all claims of third persons whether presently existing or arising in the future and whether presently known to either of the parties to this Agreement or not. This Agreement shall not be construed, however, to require the Consultant to obtain for the Consultant and the Authority the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless owned by the Consultant, or subconsultant, or an employee of either. Whether or not your Proposal is accepted by the Authority, it is agreed that all information of any nature whatsoever which is in any way connected with the services performed in connection with this Agreement, regardless of the form of which has been or may be given by you or on your behalf, whether prior or subsequent to the execution of this Agreement, to the Authority, its Commissioners, officers, agents or employees, is not given in confidence and may be used or

disclosed by or on behalf of the Authority without liability of any kind, except as may arise under valid existing or pending patents, if any.

15. If research or development is furnished in connection with the performance of this Agreement and if in the course of such research or development patentable subject matter is produced by the Consultant, its officers, agents, employees, or subconsultants, the Authority will have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make, have made and use, either itself or by anyone on its behalf, such subject matter in connection with any activity now or hereafter engaged in or permitted by the Authority. Promptly upon request by the Authority, the Consultant shall furnish or obtain from the appropriate person a form of license satisfactory to the Authority, but it is expressly understood and agreed that, as between the Authority and the Consultant the license herein provided for shall nevertheless arise for the benefit of the Authority immediately upon the production of said subject matter, and shall not await formal exemplification in a written license agreement as provided for above. Such license agreement may be transferred by the Authority to its successors, immediate or otherwise, in the operation or ownership of any real or personal property now or hereafter owned or operated by the Authority but such license shall not be otherwise transferable.

16. Notwithstanding anything to the contrary herein, the work product of the Consultant, its officers, agents, employees, or sub-consultants which is produced in accordance with the Agreement, whether it consists of computer programming or documentation thereof, including source code, and on any media whatsoever, shall be deemed to belong exclusively to the Authority, and the Authority will have the exclusive right to obtain and to hold in its own name any and all copyrights, patents, trade secrets and/or other proprietary rights and protection as may be produced as part of this work product, including the right to extensions or renewals, where appropriate. The work product shall not be destroyed or released to anyone outside of the Authority without express written authorization of the Director. The Authority will have the exclusive right to use or permit the use of them and of any ideas or methods represented by them for any purpose and at any time without compensation other than that specifically provided for herein. You agree to contract with your employees for the benefit of the Authority to ensure that the Authority has such rights and to give to the Authority or any party designated by the Authority all assistance reasonably required to perfect the rights herein above stated. You shall indemnify and hold harmless the Authority against any claims of proprietary rights infringement arising out of such use of your work product.

17. You shall promptly and fully inform the Director in writing of any patents or patent disputes, or intellectual property disputes, whether existing or potential, of which you have knowledge, relating to any idea, design, method, material, equipment or other matter related to the subject matter of this Agreement or coming to your attention in connection with this Agreement.

18. This Agreement being based upon your special qualifications for the services herein contemplated, any assignment, subletting or other transfer of this Agreement or any part hereof or of any moneys due or to become due hereunder without the express consent in writing of the Authority shall be void and of no effect as to the Authority, provided, however, that you may sublet services to subconsultants with the express consent in writing of the Director. All persons to whom you sublet services, however, shall be deemed to be your agents and no subletting or approval thereof shall be deemed to release you from your obligations under this Agreement, to impose any

obligation on the Authority to such subconsultant or give the subconsultant any rights against the Authority.

19. The Authority has a long-standing practice of encouraging Minority Business Enterprises (MBEs), Women-owned Business Enterprises (WBEs) and Service-disabled Veteran-owned Businesses (SDVOBs) to seek business opportunities with it, either directly or as subconsultants or subcontractors. "Minority business enterprise" or "MBE" means a business entity which is at least fifty-one percent (51%) owned by one (1) or more members of one (1) or more minority groups, or, in the case of a publicly held corporation, at least fifty-one percent (51%) of the stock of which is owned by one (1) or more members of one (1) or more minority groups; and whose management and daily business operations are controlled by one (1) or more such individuals who are citizens or permanent resident aliens. "Women-owned business enterprise" or "WBE" means a business which is at least fifty-one percent (51%) owned by one (1) or more women; or, in the case of a publicly held corporation, fifty-one percent (51%) of the stock of which is owned by one (1) or more women: and whose management and daily business operations are controlled by one (1) or more women who are citizens or permanent resident aliens. “Service-disabled Veteran-owned Business Enterprises” or SDVOBs means a business entity which is at least fifty-one percent (51%) owned and controlled by one or more service-disabled veteran with a service connected disability, or, in the case of a publicly held corporation, at least fifty-one percent (51%) of the stock of which is owned by one or more service-disabled veteran with a service connected disability, and whose management and daily business operations are controlled by one or more such individuals who are citizens or permanent resident aliens.

"Minority group" means any of the following racial or ethnic groups:

A. Black persons having origins in any of the Black African racial groups not of Hispanic origin;

B. Hispanic (a person of Puerto Rican, Mexican, Dominican, Cuban, Central or South American descent of either Native American or Latin American origin, regardless of race);

C. Asian and Pacific Islander persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands;

D. American Indian or Alaskan Native persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.

"Service-disabled Veteran, with a service-connected disability" means:

A. The term “service-connected” means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

B. The term “veteran” means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

The Authority has set a goal of twenty percent (20%) participation by qualified and Authority certified MBEs and ten percent (10%) for qualified and Authority certified WBEs on technical service projects for a total combined MWBE goal of thirty percent (30%), and three percent (3%) of the total contract price for Port Authority certified SDVOBs or SDVOBs certified in the State of New York.

MBE/WBE participation goals may be subject to change during the duration of this Agreement and any options or extensions thereof. Any new participation goals determined by the Authority shall be applicable to and considered a part of this Agreement. The current participation goals will be posted on the Authority's website at https://www.panynj.gov/port-authority/en/business-opportunities/Vendor-Resources.html as PA Form 4250, "MBE/WBE Participation-Professional Services Call-In". You must consult PA 4250 prior to proposing on any Task Orders issued under this Agreement.

To be "certified" a firm must be certified by the Authority's Office of Diversity, Equity and Inclusion (ODEI).

In order to facilitate the meeting of this goal, the Consultant shall use every good-faith effort to utilize subconsultants who are Authority certified MBE/WBE/SDVOBs to the maximum extent feasible.

Good faith efforts to include and facilitate participation by MBE/WBE/SDVOBs shall include, but not be limited to the following:

A. Dividing the services and materials to be procured into smaller portions, where feasible.

B. Giving reasonable advance notice of specific contracting, subcontracting and purchasing opportunities to such MBE/WBE/SDVOBs as may be appropriate.

C. Soliciting services and materials from Authority certified MBE/WBE/SDVOB firms. To access the Authority's Directory of MBE/WBE/SDVOB certified firms, go to https://www.panynj.gov/port-authority/en/business-opportunities/supplier-diversity/directories-of-MWBE.html.

D. Ensuring that provision is made to provide progress payments to MBE/WBE/SDVOBs in accordance with prompt payment provisions of the Agreement under which services are being provided, if applicable.

E. Observance of reasonable commercial standards of fair dealing in the respective trade or business.

The Authority has a list of certified MBE/WBE/SDVOB service firms which is available to you at https://www.panynj.gov/port-authority/en/business-opportunities/supplier-diversity/directories-of-MWBE.html. The Consultant will be required to submit to the Authority's ODEI for certification the names of MBE/WBE/SDVOB firms it proposes to use who are not on the list of certified MBE/WBE/SDVOB firms.

The Consultant shall include their MBE/WBE Participation Plans (Form PA 3760C) with their task order proposals, to be reviewed and approved by the Authority's ODEI. Concerning SDVOB participation, the Consultant shall include their SDVOB Participation Plans (Form PA 3760SDV1) with their task order proposals, to be reviewed and approved by the Authority's ODEI.

The Consultant must submit an MBE/WBE/SDVOB Participation Plan for each MBE/WBE/SDVOB subconsultant. Each Participation Plan shall contain, at a minimum, the following:

- Identification of the MBE/WBE/SDVOB: Provide the name and address of the MBE/WBE/SDVOB. If no MBE/WBE/SDVOB s are identified, describe the process for selecting participant firms in order to achieve the good faith goals under this Agreement.

- Level of Participation: Indicate the dollar value and percentage of MBE/WBE/SDVOB participation expected to be achieved.
- Scope of Work: Describe the specific scope of work the MBE/WBE/SDVOBs will perform.

The MBE/WBE/SDVOB subconsultant listed on each of the MBE/WBE/SDVOB Participation Plans must be certified by the Authority in order for the Consultant to receive credit toward the MBE/WBE/SDVOB goals set forth in this Agreement. Please go to https://www.panynj.gov/port-authority/en/business-opportunities/supplier-diversity/directories-of-MWBE.html to search for MBE/WBE/SDVOBs by a particular commodity or service. The Authority makes no representation as to the financial responsibility of these firms or their ability to perform work under this Agreement.

Subsequent to Agreement award, all changes to any of the MBE/WBE/SDVOB Participation Plans must be submitted via a Modified MBE/WBE/SDVOB Participation Plan to the Manager for review and approval by ODEI. For submittal of modifications to the MBE/WBE Plan, Consultants are directed to use form PA3760D, and for modifications to the SVOB Plan Consultants are directed to use form PA3760SDV2. The Consultant shall not make changes to any of its approved MBE/WBE/SDVOB Participation Plans or substitute MBE/WBE/SDVOB subconsultants or suppliers for those named in their approved plans without the Manager's prior written approval. Unauthorized changes or substitutions, including performing the work designated for a subconsultant with the Consultant's own forces, shall be a violation of this section. Progress toward attainment of MBE/WBE/SDVOB participation goals set forth herein will be monitored throughout the duration of the Agreement.

The Consultant shall also submit to the Project Manager, along with invoices, the Statement of Subcontractor Payments, which may be downloaded at https://www.panynj.gov/port-authority/en/business-opportunities/Vendor-Resources.html. The Statement must include the name and business address of each MBE/WBE/SDVOB subconsultant and supplier actually involved in the Agreement, a description of the work performed and/or product or service supplied by each such subcontractor/subconsultant or supplier, the date and amount of each expenditure, and such other information that may assist the Project Manager in determining the Consultant's compliance with the foregoing provisions.

Prompt Payment/Retainage

The Consultant shall pay each subconsultant under this Agreement, for satisfactory performance of its subcontract, no later than ten (10) days from the receipt of each payment the Consultant receives from the Authority. The Consultant shall return retainage payments, if any, to each subconsultant within ten days after the subconsultants' work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the Authority. Failure to pay subconsultants or return retainage payments may constitute a material breach of this Agreement, entitling the Authority to remedies provided in this Agreement, in addition to any other available remedy.

MBE/WBE/SDVOB Conditions of Participation

MBE/WBE/SDVOB participation will be counted toward meeting the MBE/WBE/SDVOB agreement goal, subject to all of the following conditions:

1. Commercially Useful Function: An MBE/WBE/SDVOB is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of work

on a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved in accordance with normal industry practice. Regardless of whether an arrangement between the Consultant and the MBE/WBE/SDVOB represent standard industry practice, if the arrangement erodes the ownership, control or independence of the MBE/WBE/SDVOB or in any other way does not meet the commercially useful function requirement, that firm shall not be included in determining whether the MBE/WBE/SDVOB goal is met and shall not be included in MBE/WBE/SDVOB reports. If this occurs with respect to a firm identified as an MBE/WBE/SDVOB, the Consultant shall receive no credit toward the MBE/WBE/SDVOB goal and may be required to backfill the participation. An MBE/WBE/SDVOB does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction or contract through which funds are passed in order to obtain the appearance of MBE/WBE/SDVOB participation. An MBE/WBE/SDVOB may rebut a determination by the Authority that the MBE/WBE/SDVOB is not performing a commercially useful function to the Authority.

2. Work Force: The MBE/WBE/SDVOB must employ a work force (including administrative and clerical staff) separate and apart from that employed by the Consultant, other subcontractors/subconsultants on the Agreement, or their affiliates. This does not preclude the employment by the MBE/WBE/SDVOB of an individual that has been previously employed by another firm involved in the Agreement, provided that the individual was independently recruited by the MBE/WBE/SDVOB in accordance with customary industry practice. The routine transfer of work crews from another employer to the MBE/WBE/SDVOB shall not be allowed.

3. Supervision: All work performed by the MBE/WBE/SDVOB must be controlled and supervised by the MBE/WBE/SDVOB without duplication of supervisory personnel from the Consultant, other subconsultants on the Agreement, or their affiliates. This does not preclude routine communication between the supervisory personnel of the MBE/WBE/SDVOB and other supervisors necessary to coordinate the work.

Counting MBE/WBE/SDVOB Participation

The value of the work performed by an MBE/WBE/SDVOB, with its own equipment, with its own forces, and under its own supervision will be counted toward the goal, provided the utilization is a commercially useful function. An MBE/WBE/SDVOB prime contractor/consultant shall still provide opportunities for participation by other MBE/WBE/SDVOBs. Work performed by MBE/WBE/SDVOBs will be counted as set forth below. If the Authority determines that some or all of the MBE/WBE/SDVOBs work does not constitute a commercially useful function, only the portion of the work considered to be a commercially useful function will be credited toward the goal.

1. Subconsultants: One hundred percent (100%) of the value of the work to be performed by an MBE/WBE/SDVOB subconsultant will be counted toward the MBE/WBE/SDVOB goal. The value of such work includes the cost of materials and supplies purchased by the MBE/WBE/SDVOB, except the cost of supplies or equipment leased from the Consultant, other subconsultants or their affiliates will not be counted. When an MBE/WBE/SDVOB subcontracts part of the work of its contract to another firm, the value of the subconsultant work may be counted toward MBE/WBE/SDVOB goals only if the MBE/WBE/SDVOB subconsultant is itself an MBE/WBE/SDVOB. Work that an MBE/WBE/SDVOB sub consults to a non-MBE/WBE/SDVOB firm does not count toward MBE/WBE/SDVOB goals.

2. Material Suppliers: Sixty percent (60%) of the expenditure to an MBE/WBE/SDVOB material supplier will be counted toward the MBE/WBE/SDVOB goal. Packagers, brokers, manufacturer's representatives, or other persons who arrange or expedite transactions are not material suppliers within the meaning of this paragraph.

3. Broker's/Manufacturer's Representatives: One hundred percent (100%) of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees for transportation charges for the delivery of materials or supplies provided by an MBE/WBE/SDVOB broker/manufacturer's representative will be counted toward the MBE/WBE/SDVOB goal, provided they are determined by the Authority to be reasonable and not excessive as compared with fees customarily allowed for similar services. The cost of the materials and supplies themselves will not be counted.

4. Services: One hundred percent (100%) of fees or commissions charged by an MBE/WBE/SDVOB for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of the work will be counted toward the MBE/WBE/SDVOB goal, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.

5. Joint Venture: Joint ventures between MBE/WBE/SDVOBs and non-MBE/WBE/SDVOBs may be counted toward the MBE/WBE/SDVOB goal in proportion to the total dollar value of the Agreement equal to the distinct, clearly defined portion of the work of the Agreement that the MBE/WBE/SDVOB performs with its own forces. Contact ODEI at (201) 395-3117 for more information about requirements for such joint ventures.

20. NON-DISCRIMINATION REQUIREMENTS

The Consultant shall take all necessary and reasonable steps to ensure non-discrimination in the performance and administration of all aspects of this Agreement.

A. Consultant hereby agrees that no person on the ground of race, color, national origin, creed/religion, sex, age or handicap/disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the furnishing of goods or services or in the selection and retention of subconsultants and/or vendors under this Agreement. Consultant shall also ascertain and comply with all applicable federal, state and local laws, ordinances, rules, regulations, and orders that pertain to equal employment opportunity, affirmative action, and non-discrimination in employment. The terms and conditions of Exhibit A attached hereto, apply to this Agreement.

B. Consultant agrees that these "Non-Discrimination Requirements" are a binding part of this Agreement. Without limiting the generality of any other term or provision of this Agreement, in the event the Authority, or a state or federal agency finds that the Consultant or any of its subconsultants or vendors has not complied with these "Non-Discrimination Requirements", the Authority may cancel, terminate or suspend this Agreement in accordance with Section 10 of this Agreement.

C. Consultant agrees to cooperate fully with the Authority's investigation of allegations of discrimination. Cooperation includes, but is not limited to, allowing the Authority to question employees during the investigation of allegations of discrimination, and complying with directives that the Authority or the State or Federal government deem essential to ensure compliance with these "Non-Discrimination Requirements."

21. NOTIFICATION OF SECURITY REQUIREMENTS

The Authority has the responsibility of ensuring safe, reliable and secure transportation facilities, systems and projects to maintain the well-being and economic competitiveness of the region. Therefore, the Authority reserves the right to deny access to certain documents, sensitive security sites and facilities (including rental spaces) to any person who declines to abide by Authority security procedures and protocols, any person with a criminal record with respect to certain crimes or who may otherwise pose a threat to the construction site or facility security. The Authority reserves the right to impose multiple layers of security requirements on the Consultant, its staff and subconsultants and their staffs, depending upon the level of security required, or make any amendments with respect to such requirements as determined by the Authority.

These security requirements may include but are not limited to the following:

- Execution of Non-Disclosure and Confidentiality Agreements and Acknowledgments

  At the direction of the Authority, the Consultant shall be required to have its principals, staff and/or subconsultant(s) and their staff, execute Authority approved non-disclosure and confidentiality agreements.

- Consultant/Subconsultant identity checks and background screening

  The Authority's designated background screening provider may require inspection of not less than two forms of valid/current government issued identification (at least one having an official photograph) to verify staff's name and residence; screening of federal, state, and/or local criminal justice agency information databases and files; screening of any terrorist identification files; access identification, to include some form of biometric security methodology such as fingerprint, facial or iris scanning.

  The Consultant may be required to have its staff, and any subconsultant's staff, material-men, visitors or others over whom the Consultant/subconsultant has control, authorize the Authority or its designee to perform background checks, and a personal identity verification check. Such authorization shall be in a form acceptable to the Authority. The Consultant and subconsultants may also be required to use an organization designated by the Authority to perform the background checks.

  In accordance with the Authority's Information Security Handbook, background screening is required when a person has an established need to know or has access to any one of the following types of information or physical locations:

  1) Confidential Privileged Information
  2) Confidential Information related to a security project and/or task
  3) Secure Area of an Authority or PATH facility
  4) Mission critical system

  The Consultant shall perform background checks through the Authority's personnel assurance program provider. The Secure Worker Access Consortium (S.W.A.C.) is the only Authority approved provider to be used to conduct background screening and personal identity verification, except as otherwise required by federal law and/or regulation (such as Security Identification Display Area (SIDA), the federal regulatory requirements for personnel performing work at aviation facilities.). Information about S.W.A.C., instructions, corporate

enrollment, online applications, and location of processing centers can be found at http://www.secureworker.com, or S.W.A.C. may be contacted directly at (877) 522-7922 for more information and the latest pricing. The cost for said background checks for staff that pass and are granted a credential may be reimbursable to the Consultant (and its subconsultants) as an out-of-pocket expense as provided herein. Costs for background checks for staff that are rejected for a credential for any reason are not reimbursable.

- Issuance of Photo Identification Credential

  No person shall be permitted on or about the Authority construction sites or facilities (including rental spaces) without a facility-specific photo identification credential approved by the Authority. If the Authority requires facility-specific identification credentials for the Consultant and the subconsultant's staff, the Authority will supply such identification at no cost to the Consultant or its subconsultants. Such facility-specific identification credential shall remain the property of the Authority and shall be returned to the Authority at the completion or upon request prior to completion of the individual's assignment at the specific facility. It is the responsibility of the appropriate Consultant or subconsultant to immediately report to the Authority the loss of any staff member's individual facility-specific identification credential. The Consultant or subconsultant will be billed for the cost of the replacement identification credential. Consultant's and subconsultant's staff shall display Identification badges in a conspicuous and clearly visible manner, when entering, working or leaving an Authority construction site or facility.

  Employees may be required to produce not less than two forms of valid/current government issued identification having an official photograph and an original, unlaminated social security card for identity and SSN verification.

  Where applicable, for sensitive security construction sites or facilities, successful completion of the application, screening and identity verification for all employees of the Consultant and subconsultant shall be completed prior to being provided a Photo Identification credential by the personnel assurance program provider.

  If any questions should arise as to when a Personnel Assurance Program background check is required, the Authority Manager or contract administrator should be contacted for assistance.

- Designated Secure Areas

  Services under the Agreement may be required in designated secure areas, as the same may be designated by the Authority ("Secure Areas"). The Authority will require the observance of certain security procedures with respect to Secure Areas, which may include the escort to, at, and/or from said high security areas by security personnel. All personnel that require access to designated Secure Areas who are not under escort by an authorized individual will be required to undergo background screening and personal identity verification.

  Forty-eight (48) hours prior to the proposed performance of any work in a Secure Area, the Consultant shall notify the Project Manager. The Consultant shall conform to procedures as may be established by the Project Manager from time to time and at any time for access to Secure Areas and the escorting of personnel hereunder. Prior to the start of any work, the Consultant shall request a description from the Project Manager of the Secure Areas that will be in effect on the commencement date(s) of the request services. The description of Secure Areas may be changed from time to time and at any time by the Project Manager during the

term of the Agreement.

- Access control, inspection, and monitoring by security guards

  The Authority may provide for Authority construction site or facility (including rental spaces) access control, inspection and monitoring by Port Authority Police or Authority retained contractor security guards. However, this provision shall not relieve the Consultant of its responsibility to secure its equipment and work and that of its subconsultant/subcontractor's and service suppliers at the Authority sites or facilities (including rental spaces). In addition, the Consultant, subconsultant, subcontractor or service provider is not permitted to take photographs, digital images, electronic copying and/or electronic transmission or video recordings or to make sketches on any other medium at any Authority sites or facilities (including any rental spaces), except when necessary to perform the work under this Agreement, without prior written permission from the Authority. Upon request, any photograph, digital image, video recording or sketch made of any Authority sites or facility shall be submitted to the Authority to determine compliance with this paragraph, which submission shall be conclusive and binding on the submitting entity.

- Compliance with the Port Authority Information Security Handbook

  This Agreement may require access to Authority information considered Protected Information ("PI") as defined in the Port Authority Information Security Handbook ("Handbook"), dated October 15, 2008, revised as of April 2, 2018, and as may be further amended. The Handbook and its requirements are hereby incorporated into this Agreement and will govern the possession, distribution and use of PI if at any point during the lifecycle of the project or solicitation it becomes necessary for the Consultant to have access to PI. Protecting sensitive information requires the application of uniform safeguarding measures to prevent unauthorized disclosure and to control any authorized disclosure of this information within the Authority or when released by the Authority to outside entities. The Handbook can be obtained at: https://www.panynj.gov/port-authority/en/business-opportunities/information-security-handbook-requirements.html.

- Audits for Compliance with Security Requirements

  The Authority may conduct random or scheduled examinations of business practices under this section entitled "NOTIFICATION OF SECURITY REQUIREMENTS" and the Handbook in order to assess the extent of compliance with security requirements, PI procedures, protocols and practices, which may include, but not be limited to, verification of background check status, confirmation of completion of specified training, and/or a site visit to view material storage locations and protocols.

- Cybersecurity

  All Port Authority products, services, and maintenance acquisitions shall be obtained and maintained by the Consultant in compliance with all contractual responsibilities (based on the data processed and function of the system) and applicable Federal cybersecurity government regulations, Federal, New York State, and State of New Jersey laws (including, but not limited to, Criminal Justice Information Services, North American Electric Reliability Corporation Critical Infrastructure Protection Reliability Standards, Cyber, personally identifiable information and protected health information), industry requirements pursuant to law (including, but not limited to, Sarbanes-Oxley, Gramm-Leach and Payment Card Industry Data

Security Standard), Port Authority Policies (including, but not limited to, Port Authority Cybersecurity Policy Cybersecurity Policy Standards and Guidelines, Port Authority DSS Payment Card Industry (PCI) Guide) and assigned best practices (National Institute of Standards and Technology ("NIST") 800-53 R5 and computer software component security controls The Consultant shall be responsible for and provide evidence of its continued compliance with the legal, regulatory, contractual requirements and industry standards, as applicable. The Consultant shall obtain approval from TEC prior to the purchasing of any information technology, operational technology, and cloud subscriptions or services on behalf of the Port Authority. If, at any time after the execution of this Agreement, the Consultant is determined, in the Port Authority's sole discretion, to be out of compliance with the applicable foregoing security controls, the Consultant shall correct such deficiencies pursuant to a remediation plan approved by the Port Authority or pursuant to the direction of the Port Authority. Any failure to correct such deficiencies promptly or the repeated occurrence of deficiencies, may be deemed a material breach of this Agreement and be cause for the Port Authority to terminate this Agreement.

In addition, the Consultant and its subconsultants (if any) shall follow all Port Authority required guidelines whether such guidelines are currently existing or are developed in the future, as the same may be updated, amended, or modified from time to time including, but not limited to the following documents:

1) Port Authority Agency Cybersecurity Standards and Guidelines v. 2.9, dated April 29, 2020

2) Port Authority Cyber Security and Computing Resources Administrative Instruction (AI) 15-4.03, dated April 8, 2019, as may be further amended

3) The Port Authority of New York and New Jersey Information Security Handbook, which can be obtained at: https://www.panynj.gov/port-authority/en/business-opportunities/information-security-handbook-requirements.html.

22. CONFIDENTIAL INFORMATION/NON-PUBLICATION

A. As used herein, confidential information shall mean all information disclosed to the Consultant or the personnel provided by the Consultant hereunder which relates to the Authority's and/or the Port Authority Trans Hudson (PATH) Corporation's past, present, and future research, development and business activities including, but not limited to, software and documentation licensed to the Authority or proprietary to the Authority and/or PATH and all associated software, source code procedures and documentation. Confidential information shall also mean any other tangible or intangible information or materials including but not limited to computer identification numbers, access codes, passwords, and reports obtained and/or used during the performance of the Consultant's services under this Agreement.

B. Protected Information shall mean and include collectively, as per *The Port Authority of New York & New Jersey Information Security Handbook (October 15, 2008, revised as of April 2, 2018, and as may be further amended),* Confidential Information, Confidential Proprietary Information, Confidential Privileged Information and information that is labeled, marked or otherwise identified by or on behalf of the Authority so as to reasonably connote that such information is confidential, privileged, sensitive or proprietary in nature. Protected Information shall also include all work product that contains or is derived from any of the foregoing, whether

in whole or in part, regardless of whether prepared by the Authority or a third-party or when the Authority receives such information from others and agrees to treat such information as Confidential.

C. The Consultant shall hold all such Protected Information in trust and confidence for the Authority, and agrees that the Consultant and the personnel provided by the Consultant hereunder shall not, during or after the termination or expiration of this Agreement, disclose to any person, firm or corporation, nor use for its own business or benefit, any information obtained by it under or in connection with the supplying of services contemplated by this Agreement. The Consultant and the personnel provided by the Consultant hereunder shall not violate in any manner any patent, copyright, trade secret or other proprietary right of the Authority or third persons in connection with their services hereunder, either before or-after termination or expiration of this Agreement. The Consultant and the personnel provided by the Consultant hereunder shall not willfully or otherwise perform any dishonest or fraudulent acts, breach any security procedures, or damage or destroy any hardware, software or documentation, proprietary or otherwise, in connection with their services hereunder. The Consultant shall promptly and fully inform the Director in writing of any patent, copyright, trade secret or other intellectual property rights or disputes, whether existing or potential, of which the Consultant has knowledge, relating to any idea, design, method, material, equipment or other matter related to this Agreement or coming to the Consultant's attention in connection with this Agreement.

D. The Consultant shall not issue nor permit to be issued any press release, advertisement, or literature of any kind, which refers to the Authority or to the fact that goods have been, are being or will be provided to it and/or that services have been, are being or will be performed for it in connection with this Agreement, unless the Consultant first obtains the written approval of the Authority. Such approval may be withheld if for any reason the Authority believes that the publication of such information would be harmful to the public interest or is in any way undesirable. Notwithstanding such provision, the Port Authority generally will not object to a Port Authority Consultant or subconsultant describing factual information that accurately describes the goods provided to, or services performed for, the Port Authority by such consultant or subconsultant in connection with a publicly known Port Authority agreement, and permission is not required when such information will be conveyed in bid or proposal documents for work with other entities.

23. The Consultant assumes the following distinct and several risks to the extent they may arise from the negligent or willful intentional acts or omissions of the Consultant or its subconsultants/subcontractors in the performance of services hereunder:

A. The risk of loss or damage to Authority property arising out of or in connection with the performance of services hereunder;

B. The risk or loss or damage to any property of the Consultant or its subconsultants/subcontractors arising out of or in connection with the performance of services hereunder;

C. The risk of claims, arising out of or in connection with the performance of services hereunder, whether made against the Consultant or its subconsultants/subcontractors or against the Authority, for loss or damage to any property of the Consultant's agents, employees, subcontractors, subconsultants, materialmen or others performing services hereunder;

D. The risk of claims, just or unjust, by third persons made against the Consultant or its subconsultants/subcontractors or the Authority on account of injuries (including wrongful death), loss or damage of any kind whatsoever arising in connection with the performance of services hereunder, including claims against the Consultant or its subconsultants/subcontractors or against the Authority for the payment of workers' compensation, whether such claims are made and whether such injuries, damage or loss are sustained at any time both before and after the completion of services hereunder.

The Consultant shall indemnify the Authority against all claims described in subparagraphs A through D above and for all expense incurred by the Authority in the defense, settlement or satisfaction thereof, including expenses of attorneys. If so directed by the Authority, the Consultant shall defend against any claim described in subparagraphs B, C and D above, in which event the Consultant shall not without obtaining express advance permission from the General Counsel of the Authority, raise any defense involving in any way the jurisdiction of any court, tribunal, agency, special district, commission or other authority exercising judicial or regulatory functions over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, directors, officers, agents or employees, their affiliates, successors and/or assigns, the governmental nature of the Port Authority or the provision of any statutes respecting suits against the Port Authority. The Port Authority is an intended third-party beneficiary of the agreement between the Consultant, and each of its respective subconsultants and insurers, with the direct right to enforce the agreement with respect to this provision.

The provisions of this clause shall also be for the benefit of the Commissioners, officers, agents and employees of the Authority, so that they shall have all the rights which they would have under this clause if they were named at each place above at which the Authority is named, including a direct right of action against the Consultant to enforce the foregoing indemnity, except, however, that the Authority may at any time in its sole discretion and without liability on its part, cancel the benefit conferred on any of them by this clause, whether or not the occasion for invoking such benefit has already arisen at the time of such cancellation.

Neither the completion of services hereunder nor the making of payment (final or otherwise) shall release the Consultant from their obligations under this clause. Moreover, neither the enumeration in this clause or the enumeration elsewhere in this Agreement of particular risks assumed by the Consultant or of particular claims for which they are responsible shall be deemed (a) to limit the effect of the provisions of this clause or of any other clause of this Agreement relating to such risks or claims, (b) to imply that the Consultant assumes or is responsible for risks or claims only of the type enumerated in this clause or in any other clause of this Agreement, or (c) to limit the risks which the Consultant would assume or the claims for which they would be responsible in the absence of such enumerations.

No third-party rights are created by the Agreement, except to the extent that the Agreement specifically provides otherwise by use of the words "benefit" or "direct right of action".

Inasmuch as the Authority has agreed to indemnify the Cities of New York and Newark against claims of the types described in subparagraph D above made against said cities, the Consultant's obligation under subparagraph D above shall include claims by said cities against the Authority for such indemnification.

24. LIABILITY INSURANCE AND WORKERS' COMPENSATION INSURANCE

A. Commercial Liability Insurance:

1) The Consultant(s), and all of its/their Sub-consultants shall take out, maintain, and pay the premiums on **Commercial General Liability Insurance** for the life of the Agreement and such Insurance shall be written on an ISO occurrence form CG 00 01 0413 or its equivalent covering the obligations assumed by the Consultant(s) under this Agreement, including, but not limited to, Premises-Operations, Products and Completed Operations, and Independent Contractor's coverages, with contractual liability language covering the obligations assumed by the Consultant(s) with insurance covering against claims for injuries to persons or damages to property which may arise from or in connection with products and materials supplied to the Agency in limits of not less than **$5,000,000** combined single limit per occurrence and in the annual aggregate. If vehicles are to be used to carry out the performance of this Agreement, then the Consultant(s) shall also take out, maintain and pay the premiums on **Automobile Liability Insurance** covering all owned, non-owned and hired autos in not less than **$5,000,000** combined single limit per accident for bodily injury and property damage.

The insurance shall be written on an occurrence basis, as distinguished from a "claims made" basis, and shall not include any exclusions for "action over claims" (insured vs. insured) and minimally arranged to provide and encompass at least the following coverages:

- Contractual Liability to cover liability assumed under the Agreement;
- Independent Consultant's Coverage;
- Premises-Operations, Products and Completed Operations Liability Insurance;
- The insurance coverage (including primary, excess and/or umbrella) hereinafter afforded by the Consultant(s) and Sub-consultant(s) shall be primary insurance and non-contributory with respect to the additional insureds;
- Excess/umbrella policies shall "follow form" to the underlying policies;
- Excess/umbrella policies shall have a liberalization clause with drop down provision;
- To the extent any coverage the Consultant(s) and Sub-consultant(s) obtains and/or maintains under this Agreement contains "Other Insurance" language or provisions shall not be applicable to the additional insureds or to any insurance coverage maintained by the additional insureds;
- All insurance policies shall include a waiver of subrogation, as allowed by law, in favor of the additional insureds;
- Defense costs must be outside of policy limits. Eroding limits policies are not permitted;
- In the event the Consultant(s) and/or its Sub-consultant(s) obtains and/or maintains broader coverage and/or insurance in an amount greater than the minimum limits required under this Agreement, then the full limits of that insurance coverage will be available to respond to any claims asserted against the additional insureds that arises out of or is in any way connected with this Agreement;
- Additional insureds coverage shall not be restricted to vicarious liability unless required by controlling law.

In addition, the liability policy(ies) shall be written on a form at least as broad as ISO Form CG 20 10 10 01 (for ongoing operations work) together with ISO Form CG 20 37 10 01 (for completed operations work) or their equivalent and endorsed to name "The Port Authority of New York and New Jersey, and its related entities, their Commissioners, Directors, Superintendents, officers,

partners, employees, agents, their affiliates, successors or assigns", and list of entities under Schedule A as "Insured" (as defined in the policy or in an additional insured endorsement amending the policy's "Who Is An Insured" language as the particular policy may provide) on its liabilities policies with respect to liability arising out of work or operations performed by or on behalf of the Consultant(s) including, but not limited to, materials, parts or equipment furnished in connection with such work or operations. The "Insured" shall be afforded coverage and defense as broad as if they are the first named insured and regardless of whether they are otherwise identified as additional insureds under the liability policies, including but not limited to premises-operations, products-completed operations of the Commercial General Liability Policy. Such additional insureds status shall be provided regardless of privity of contract between parties. The liability policy(ies) and certificate of insurance shall contain cross-liability language providing severability of interests so that coverage will respond as if separate policies were in force for each insured. An act or omission of one of the insureds shall not reduce or void coverage to the other insureds. The Consultant(s) is/are responsible for all deductibles or losses not covered by commercially procured insurance. Any portion of the coverage to be provided under a Self-Insured Retention (SIR) of the Consultant(s) is/are subject to the review and approval of the General Manager, Risk Financing. Furthermore, any insurance or self-insurance maintained by the above additional insureds shall not contribute to any loss or claim.

Any self-insured retention shall cover any liability imposed upon the Consultant(s) and any and all subsidiaries with respect to all operations and obligations assumed by the Consultant(s) and any and all subsidiaries. The undersigned represents that such program provides the Additional Insureds (as defined in the Agreement) with all rights, immunities and protections that would be provided by traditional independent insurance required under the Agreement, including, but not limited to, the defense obligations that insurers are required to undertake in liability policies pursuant to the terms of the Agreement.

If any of the work is to be done on or at Port Authority facilities by the Sub-consultants and, if the Consultant(s) requires its Sub-consultant(s) to procure and maintain such insurance in the name of the Consultant(s), then such insurance as is required herein shall include and cover the additional insureds and it must have insurance limits not lower than those set forth by the Port Authority herein, along with all the insurance requirements in this "Insurance" section.

Further, it is the Consultant's responsibility to maintain, enforce and ensure that the type of coverages and all limits maintained by it and any of all Sub-consultants are accurate, adequate and in compliance with the Port Authority requirement. All certificates of insurance shall be turned over to the Port Authority prior to the start of work, and upon completion of the Agreement.

The Consultant and Sub-consultant(s) shall not, and shall ensure that their insurer(s) shall not, without obtaining the express advance written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of any court, tribunal, agency, special district, commission or other authority exercising judicial or regulatory functions over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, directors, officers, agents or employees, their affiliates, successors and/or assigns, the governmental nature of the Port Authority or the provision of any statutes respecting suits against the Port Authority.

The Port Authority is an intended third-party beneficiary of the agreement between the Consultant, and each of its respective subconsultants and insurers, with the direct right to enforce the agreement with respect to this provision.

2) Workers' Compensation and Employers Liability Insurance:

The Consultant(s) and its/their Sub-consultant(s) shall take out, maintain and pay premiums on Workers' Compensation Insurance in accordance with the requirements of law in the state(s) where work will take place, and Employer's Liability Insurance with limits of not less than **$1,000,000** for bodily injury by each accident and **$1,000,000** for bodily injury by disease for each employee, and bodily injury/disease of at least **$1,000,000** for each accident. Such policy shall include a waiver of subrogation endorsement in the benefit of the additional insureds.

3) Additional Coverages: The Consultant(s) shall have the policy endorsed when required by the Director for specific services hereunder and include the additional premium cost thereof as an out-of-pocket expense:

a) Any/all activities performed airside must, at all times, be performed while under security escort as approved in advance, and in writing by the Project Manager If the services of the Consultant(s), as directed by the Authority, require the performance of services airside, the Commercial General Liability and Automobile Liability coverage limits stipulated in subparagraph 1, above, shall be increased to an amount not less than $25,000,000 per occurrence as provided herein.

b) Endorsement to eliminate any exclusions applying to the explosion, collapse, and underground property damage (XCU) hazards.

c) Endorsement to eliminate any exclusions on account of ownership, maintenance, operation, use, loading or unloading of watercraft.

d) Coverage for work within fifty (50) feet of railroad.

4) Additional Coverages: The Consultant(s) shall have the policy endorsed when required by the Director for specific services hereunder and include the additional premium cost thereof as an out-of-pocket expense:

a) United States Longshoremen's and Harbor Workers' Compensation Act Endorsement.

b) Coverage B Endorsement - Maritime (Masters or Members of the Crew of Vessels), in limits of not less than $1,000,000 per occurrence.

c) Amendments to Coverage B, Federal Employers' Liability Act in limits of not less than $1,000,000 per occurrence.

5) Professional Liability Insurance: The Consultant(s) shall take out, maintain and pay premiums on Professional Liability Insurance in limits of not less than **$5,000,000** each occurrence, covering acts, errors, mistakes, and omissions arising out of the work or services performed by Consultant(s), or any person employed by Consultant(s). All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on an occurrence basis or may be written on a claims made basis with a minimum of a three-year reporting/discovery period.

Subconsultant(s) performing architectural and engineering services, including civil, environmental, electrical, and mechanical design or engineering, shall take out, maintain and pay premiums on Professional Liability Insurance in limits of $5 million each occurrence, covering acts, errors, mistakes, and omissions arising out of the work or services performed by the subconsultant(s), or any person employed by the subconsultant(s). All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on an occurrence basis or may be written on a claims made basis with a minimum of a three-year reporting/discovery period.

Subconsultant(s) performing construction and project/program management services, including surveying, quality assurance, lab testing, inspections, and scheduling and field engineers, shall take out, maintain and pay premiums on Professional Liability Insurance in limits of $5 million each occurrence, covering acts, errors, mistakes, and omissions arising out of the work or services performed by the subconsultant(s), or any person employed by the subconsultant(s). All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on an occurrence basis or may be written on a claims made basis.

Subconsultant(s) performing non-technical back-office or administrative functions only, including support staffing, secretarial/clerical staffing, document control, and scheduling services, shall not be required to maintain Professional Liability Insurance.

Each policy above shall contain an endorsement that the policy may not be canceled, terminated or modified without thirty (30) days' prior written notice to the Project Manager, at the location where the work will take place with a copy to the General Manager, Risk Financing.

The Authority may, at any time during the term of this Agreement, change or modify the limits and coverages of insurance. Should the modification or change result in an additional premium, the General Manager, Risk Financing for the Port Authority may consider such cost as an out-of-pocket expense.

Within five (5) days after award of this Agreement and prior to the start of work at the site, the Consultant(s) must submit an original certificate of insurance, to the Project Manager at the location where the work will take place. This certificate of insurance MUST show evidence of the above insurance policy(ies), including, but not limited to, the title of this Agreement, the P. A. Agreement number, the notice of cancellation provisions, prior to the start of work. The Consultant(s) is/are also responsible for maintaining and conforming to all insurance requirements from the additional insureds and their successors and assigns. The General Manager, Risk Financing must approve the certificate(s) of insurance before any work can begin. Upon request of the General Manager, Risk Financing/Treasury, the Consultant shall furnish to the Authority a certified copy of each policy itself, including the provisions establishing premiums.

Renewal certificates of insurance or policies shall be delivered to the Authority's Project Manager, and upon request from the additional insureds, their successors or assigns at least fifteen (15) days prior to the expiration date of each expiring policy. The General Manager, Risk Financing must approve the renewal certificate(s) of insurance before work can resume on the facility. If at any time any of the certificates or policies shall become unsatisfactory to the Authority, the Consultant(s) shall promptly obtain a new and satisfactory certificate and policy and provide same to the Authority.

If at any time the above liability insurance should be canceled, terminated, or modified so that the insurance is not in effect as above required, then, the Consultant(s) and all Sub-consultants shall suspend performance of the Agreement at the premises until a satisfactory insurance policy(ies) and certificate of insurance is provided to and approved by Risk Financing, unless the Facility or Project Manager directs the Consultant(s), in writing, to continue to performing work under the Agreement. If the Agreement is so suspended, no extension of time shall be due on account thereof.

Failure by the Consultant(s) to meet any of the insurance requirements, including the requirement that the Authority be afforded the full extent of the insurance obtained under this Agreement without limitation, shall be deemed a material breach of Agreement and may be a basis for termination of this Agreement by the Authority.

The requirements for insurance procured by the Consultant(s) shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Consultant(s) under this Agreement. The insurance requirements are not a representation by the Authority as to the adequacy of the insurance to protect the Consultant against the obligations imposed on them by law or by this or any other Agreement.

All insurance coverage shall be provided by the Consultant(s) and/or by or for any of its/their Sub-consultant(s) at no additional expense to the Authority and its related entities. A copy of this "Insurance" section shall be given to your insurance agent and Sub-consultant(s) and shall form a part of the covered Agreement for insurance purposes in furtherance of the insurance requirements of this Agreement.

25. The Port Authority has adopted a Code of Ethics for Port Authority Vendors (the "Code"). The Code is hereby made a part of this Agreement. The Code can be found at https://www.panynj.gov/port-authority/en/business-opportunities/Vendor-Resources.html.

26. CERTIFICATION OF NO INVESTIGATION (CRIMINAL OR CIVIL ANTI-TRUST), INDICTMENT, CONVICTION, DEBARMENT, SUSPENSION, DISQUALIFICATION AND DISCLOSURE OF OTHER INFORMATION

By proposing on this Agreement, each Consultant and each person signing on behalf of any Consultant certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, that the Consultant and each parent and/or affiliate of the Consultant has not:

A. been indicted or convicted in any jurisdiction;

B. been suspended, debarred, found not responsible or otherwise disqualified from entering into any agreement with any governmental agency or been denied a government contract for failure to meet standards related to the integrity of the Consultant;

C. received a less than satisfactory rating on a public or government contract;

D. had an agreement terminated by any governmental agency for breach of contract or for any cause based in whole or in part on an indictment or conviction;

E. ever used a name, trade name or abbreviated name, or an Employer Identification Number different from those inserted in the Proposal;

F. had any business or professional license suspended or revoked or, within the five (5) years prior to proposal opening, had any sanction imposed in excess of fifty thousand dollars ($50,000) as a result of any judicial or administrative proceeding with respect to any license held or with respect to any violation of a federal, state or local environmental law, rule or regulation;

G. had any sanction imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, proposal rigging, embezzlement, misrepresentation or anti-trust, regardless of the dollar amount of the sanctions or the date of their imposition; and

H. been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency, including an inspector general of a governmental agency or public authority.

27. NON-COLLUSIVE PROPOSING, AND CODE OF ETHICS CERTIFICATION, CERTIFICATION OF NO SOLICITATION BASED ON COMMISSION, PERCENTAGE, BROKERAGE, CONTINGENT OR OTHER FEES

By proposing on this Agreement, each Consultant and each person signing on behalf of any consultant certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that:

A. the prices in its proposal have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other consultant or with any competitor;

B. the prices quoted in its proposal have not been and will not be knowingly disclosed directly or indirectly by the Consultant prior to the official opening of such proposal to any other consultant or to any competitor;

C. no attempt has been made and none will be made by the Consultant to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition;

D. this organization has not made and will not make any offers or agreements or take any other action with respect to any Authority employee or former employee or immediate family member (i.e. spouse, domestic partner, child, parent, sibling, grandparent or grandchild) of either which would cause any Authority employee or former employee to violate his/her obligations under Administrative Instruction 20-1.15, Conflicts of Interest and Financial Disclosure (Revised September 30, 2019), and Administrative Instruction 20-1.16, Offers of Employment and Post-Employment Obligations (Issued September 30, 2019), and as the same may be revised from time to time (copies of which are available upon request), nor does this organization have any knowledge of any act on the part of an Authority employee or former employee relating either directly or indirectly to this organization which constitutes a breach of his/her obligations as set forth in said Administrative Instructions. This organization acknowledges that if awarded this Agreement by the Port Authority it will be bound by the provisions of the Port Authority Vendor Code of Ethics prohibiting, among other things, such offers or agreements or other actions giving rise to a breach by an Authority employee or former employee of his/her obligations as set forth in the aforesaid Administrative Instructions;

E. no person or selling agency other than a bona fide employee or bona fide established commercial or selling agency maintained by the Consultant for the purpose of securing business, has been employed or retained by the Consultant to solicit or secure this Agreement on the understanding that a commission, percentage, brokerage, contingent, or other fee would be paid to such person or selling agency;

F. the Consultant has not offered, promised or given, demanded or accepted, any undue advantage, directly or indirectly, to or from a public official or employee, political candidate, party or party official, or any private sector employee (including a person who directs or works for a private sector enterprise in any capacity), in order to obtain, retain, or direct business or to secure any other improper advantage in connection with this Agreement; and

G. no person or organization has been retained, employed or designated on behalf of the Consultant to impact any Authority determination with respect to (i) the solicitation, evaluation or award of this Agreement; or (ii) the preparation of specifications or request for submissions in connection with this Agreement.

The certifications in this Section and the Section entitled "Certification of No Investigation (Criminal or Civil Anti-trust), Indictment, Conviction, Debarment Suspension, Disqualification and Disclosure of Other Information" shall be deemed to be made by the Consultant as follows:

* if the Consultant is a corporation, such certification shall be deemed to have been made not only with respect to the Consultant itself, but also with respect to each parent, affiliate, director, and officer of the Consultant, as well as, to the best of the certifier's knowledge and belief, each stockholder of the Consultant with an ownership interest in excess of 10%;

* if the Consultant is a partnership, such certification shall be deemed to have been made not only with respect to the Consultant itself, but also with respect to each partner.

Moreover, the certifications in this Section and the Section entitled "Certification of No Investigation (Criminal or Civil Anti-trust), Indictment, Conviction, Debarment Suspension, Disqualification and Disclosure of Other Information", if made by a corporate Consultant, shall be deemed to have been authorized by the Board of Directors of the Consultant, and such authorization shall be deemed to include the signing and submission of the proposal and the inclusion therein of such certification as the act and deed of the corporation.

In any case where the Consultant cannot make the certifications in this Section and the Section entitled "Certification of No Investigation (Criminal or Civil Anti-trust), Indictment, Conviction, Debarment Suspension, Disqualification and Disclosure of Other Information", the Consultant shall so state and shall furnish with the signed proposal a signed statement which sets forth in detail the reasons therefor. If the Consultant is uncertain as to whether it can make the foregoing certifications, it shall so indicate in a signed statement furnished with its proposal, setting forth in such statement the reasons for its uncertainty. With respect to the foregoing certification in paragraph "27G.", if the Consultant cannot make the certification, it shall provide, in writing, with the signed proposal: (i) a list of the name(s), address(es), telephone number(s), and place(s) of principal employment of each such individual or organization; and (ii) a statement as to whether such individual or organization has a "financial interest" in this Agreement, as described in the Procurement Disclosure Policy of the Authority (a copy of which is available upon request to the Authority). Such disclosure is to be updated, as necessary. As a result of such disclosure, the Authority will take appropriate action up to and including a finding of non-responsibility.

Failure to make the required disclosures shall lead to administrative actions up to and including a finding of non-responsiveness or non-responsibility.

Notwithstanding that the Consultant may be able to make the certifications in this Section and the Section entitled "Certification of No Investigation (Criminal or Civil Anti-trust), Indictment, Conviction, Debarment Suspension, Disqualification and Disclosure of Other Information" at the time the proposal is submitted, the Consultant shall immediately notify the Authority in writing during the period of irrevocability of proposals and the term of the Agreement or any extension of such period, if Consultant is awarded the Agreement, of any change of circumstances which might under this clause make it unable to make the foregoing certifications, might render any portion of the certifications previously made invalid, or require disclosure. The foregoing certifications or signed statement shall be deemed to have been made by the Consultant with full knowledge that they would become a part of the records of the Authority and that the Authority will rely on their truth and accuracy in awarding this Agreement. In the event that the Authority should determine at any time prior or subsequent to the award of this Agreement that the Consultant has falsely certified as to any material item in the foregoing certifications, has failed to immediately notify the Authority of any change in circumstances which might make it unable to make the foregoing certifications, might render any portion of the certifications previously made invalid, or require disclosure, or has willfully or fraudulently furnished a signed statement which is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the foregoing certifications required to be disclosed, the Authority may determine that the Consultant is not a responsible Consultant with respect to its proposal on the Agreement or with respect to future proposals on Authority agreements and may exercise such other remedies as are provided to it by the Agreement with respect to these matters. In addition, Consultant is advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see, e.g., New York Penal Law, Section 175.30 et seq.). Consultants are also advised that the inability to make such certification will not in and of itself disqualify the Consultant and that in each instance the Authority will evaluate the reasons therefor provided by the Consultant.

Under certain circumstances the Consultant may be required as a condition of award of this Agreement to enter into a Monitoring Agreement under which it will be required to take certain specified actions, including compensating an independent Monitor to be selected by the Authority. Said Monitor to be charged with, among other things, auditing the actions of the Consultant to determine whether its business practices and relationships indicate a level of integrity sufficient to permit it to continue business with the Authority.

28. CONSULTANT ELIGIBILITY FOR AWARD OF AGREEMENTS – DETERMINATION BY AN AGENCY OF THE STATE OF NEW YORK OR THE STATE OF NEW JERSEY CONCERNING ELIGIBILITY TO RECEIVE PUBLIC AGREEMENTS

Consultants are advised that the Authority has adopted a policy to the effect that in awarding its agreements it will honor any determination by an agency of the State of New York or of the State of New Jersey that a Consultant is not eligible to propose on or be awarded public agreements because the Consultant has been determined to have engaged in illegal or dishonest conduct or to have violated prevailing rate of wage legislation.

The policy permits a Consultant whose ineligibility has been so determined by an agency of the State of New York or of the State of New Jersey to submit a proposal on an Authority agreement

and then to establish that it is eligible to be awarded an agreement on which it has proposed because (i) the state agency determination relied upon does not apply to the Consultant, or (ii) the state agency determination relied upon was made without affording the Consultant the notice and hearing to which the Consultant was entitled by the requirements of due process of law, or (iii) the state agency determination was clearly erroneous or (iv) the state agency determination relied upon was not based on a finding of conduct demonstrating a lack of integrity or violation of a prevailing rate of wage law.

The full text of the resolution adopting the policy may be found in the Minutes of the Authority's Board of Commissioners meeting of September 9, 1993.

29. CONSULTANT RESPONSIBILITY, SUSPENSION OF WORK AND TERMINATION

During the term of this Agreement, the Consultant shall at all times during the Agreement term remain responsible. The Consultant agrees, if requested by the Authority, to present evidence of its continuing legal authority to do business in the States of New Jersey or New York, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Authority, in its sole discretion, reserves the right to suspend any or all activities under this Agreement, at any time, when it discovers information that calls into question the responsibility of the Consultant. In the event of such suspension, the Consultant will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Consultant must comply with the terms of the suspension order. Agreement activity may resume at such time as the Authority issues a written notice authorizing a resumption of performance under the Agreement.

Upon written notice to the Consultant, and an opportunity to be heard with appropriate Authority officials or staff, the Agreement may be terminated by the Authority at the Consultant's expense when the Consultant is determined by the Authority to be non-responsible. In such event, the Authority or its designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach, including recovery of costs from Consultant associated with such termination.

30. NO GIFTS, GRATUITIES, OFFERS OF EMPLOYMENT, ETC.

At all times, the Consultant shall not offer, give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority, or to a member of the immediate family (i.e., spouse, domestic partner, child, parent, sibling, grandparent or grandchild) of any of the foregoing, in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Consultant on behalf of the Port Authority, whether or not such duties are related to this Agreement or any other Port Authority agreement or matter. Any such conduct shall be deemed a material breach of this Agreement. The Bidder acknowledges that if it is awarded this Agreement it will be bound by the provisions of the Port Authority Vendor Code of Ethics regarding Gifts, Gratuities and Favors.

As used herein "anything of value" shall include but not be limited to any (a) favors, such as meals, entertainment, transportation (other than that contemplated by this Agreement or any other Port Authority agreement), etc., and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the

cancellation thereof, preferential treatment or business opportunity, other than as permitted under Administrative Instruction 20-1.06, Gifts, Gratuities, Business Expenses, and Offers of Employment (Revised March 11, 2014), and as the same may be revised from time to time. Such term shall not include compensation contemplated by this Agreement or any other Port Authority agreement. Where used herein, the term "Port Authority" shall be deemed to include all subsidiaries and component units of the Port Authority.

The Consultant shall ensure that no gratuities of any kind or nature whatsoever shall be solicited or accepted by it or by its personnel for any reason whatsoever from the passengers, tenants, customers or other persons using the Facility and shall so instruct its personnel. The Consultant shall include the provisions of this clause in each subcontract entered into under this Agreement.

31. OBLIGATION TO REPORT

In the event that the Consultant becomes aware of the occurrence of any conduct that is prohibited by the section entitled “No Gifts, Gratuities, Offers of Employment, Etc.”, or if the Consultant knows or should reasonably know that a principal, employee, or agent of the Consultant or of its subconsultants or subcontractors has committed a violation of federal, New York or New Jersey law addressing or governing anti-trust, public contracting, false claims, fraud, extortion, bribery, bid rigging, embezzlement, prevailing wage or minority, woman, small or disadvantaged business enterprises, it shall report such information to the Authority’s Office of Inspector General within three (3) business days of obtaining such knowledge. (See https://www.panynj.gov/port-authority/en/help-center/oig.html for information about how to report information to the Office of Inspector General). Failing to report such conduct may be grounds for finding of non-responsibility. The Consultant shall not take any Retaliatory Action against any of its employees for reporting such conduct.

In addition, during the term of this Agreement, the Consultant shall not make an offer of employment or take any action with respect to a Port Authority employee or former employee that would require or cause such employee or former employee to breach his/her obligations under Administrative Instruction 20-1.15, Conflicts of Interest and Financial Disclosure (Revised September 30, 2019), and Administrative Instruction 20-1.16, Offers of Employment and Post-Employment Obligations (Issued September 30, 2019), and as may be revised from time to time (copies of which are available upon request to the Port Authority). The Consultant shall not require any former Port Authority employee in its employ to violate his/her post-employment obligations under Administrative Instruction 20-1.16. The Consultant acknowledges that if it is awarded the Agreement it will be bound by the Port Authority Vendor Code of Ethics, which prohibits all vendors from taking such actions.

The Consultant shall include the provisions of this clause in each subcontract entered into under this Agreement.

32. CONFLICT OF INTEREST

During the term of this Agreement, the Consultant shall not participate in any way in the preparation, negotiation or award of any agreement (other than an agreement for its own services to the Authority) to which it is contemplated the Authority may become a party, or participate in any way in the review or resolution of a claim in connection with such an agreement if the Consultant has a substantial financial interest in the Consultant or potential consultant of the Authority or if the Consultant has an arrangement for future employment or for another business

relationship with said Consultant or potential consultant nor shall the Consultant at any time take any other action which might be viewed as or give the appearance of conflict of interest on its part. If the possibility of such an arrangement for future employment or for another business arrangement has been or is the subject of a previous or current discussion, or if the Consultant has reason to believe such an arrangement may be the subject of future discussion, or if the Consultant has any financial interest, substantial or not, in a consultant or potential consultant of the Authority, and if the Consultant's participation in the preparation, negotiation or award of any agreement with such a consultant or the review or resolution of a claim in connection with such an agreement is contemplated or if the Consultant has reason to believe that any other situation exists which might be viewed as or give the appearance of a conflict of interest, the Consultant shall immediately inform the Chief Procurement Officer in writing of such situation giving the full details thereof. Unless the Consultant receives the specific written approval of the Chief Procurement Officer, the Consultant shall not take the contemplated action which might be viewed as or give the appearance of a conflict of interest. The Chief Procurement Officer may require the Consultant to submit a mitigation plan addressing and mitigating any disclosed or undisclosed conflict, which is subject to the approval of the Chief Procurement Officer and shall become a requirement as though fully set forth in this Agreement. In the event the Chief Procurement Officer shall determine that the performance by the Consultant of a portion of its services under this Agreement is precluded by the provisions of this numbered paragraph, or a portion of the Consultant's said services is determined by the Chief Procurement Officer to be no longer appropriate because of such preclusion, then the Chief Procurement Officer shall have full authority on behalf of both parties to order that such portion of the Consultant's services not be performed by the Consultant, reserving the right, however, to have the services performed by others; and any lump sum compensation payable hereunder which is applicable to the deleted work shall be equitably adjusted by the parties. The Consultant's execution of this document shall constitute a representation by the Consultant that at the time of such execution the Consultant knows of no circumstances, present or anticipated, which come within the provisions of this paragraph or which might otherwise be viewed as or give the appearance of a conflict of interest on the Consultant's part. The Consultant acknowledges that the Authority may preclude it from involvement in certain disposition/privatization initiatives or transactions that result from the findings of its evaluations hereunder or from participation in any agreements that result, directly or indirectly, from the services provided by the Consultant hereunder. The Authority's determination regarding any questions of conflict of interest shall be final.

33. INTEGRITY MONITOR

In the event that the Authority hires an Integrity Monitor in connection with the work under this Agreement, the Consultant and any subcontractors/subconsultants shall cooperate fully with the Monitor and the Authority, which includes, but is not limited to, providing complete access to all personnel and records in any way related to the work performed pursuant to this Agreement. Any failure to cooperate may result in the termination of this Agreement. The Consultant shall include the provisions of this clause in each subcontract entered into under this Agreement.

34. RIGHT TO AUDIT

Notwithstanding anything to the contrary, the Authority, including its Inspector General, Audit Department and Integrity Monitor, or its designee(s) each shall have the right to audit all of the records of the Consultant with respect to the work and the Agreement, including, without

limitation, records pertaining to any compensation paid, payable, or to be paid under the Agreement. The Consultant shall not be entitled to any reimbursement or other compensation for costs associated with such audit, investigation, or certification. The Consultant shall include the provisions of this clause in each subcontract entered into under this Agreement.

The Consultant agrees to pay for the cost of any audit or investigation conducted by the Authority, in which any criminal activity, ethics violations, or professional misconduct by the Consultant or any of its employees, or subconsultants or any of its employees, are discovered. The Consultant shall further agree that should it fail or refuse to pay for any such audit or investigation, the Authority is authorized to deduct from any sum owing the Consultant an amount equal to the cost of such audit and the damages resulting therefrom. The determination of the value of any such costs and decision to withhold any such payments are at the sole discretion of the Authority (including its Inspector General).

35. CONTRACT REVIEW AND COMPLIANCE AUDITS

The Consultant, and any subconsultants, shall provide prompt system access and reasonable assistance to the Authority's External and Internal Audit staff or its consultants in their performance of work under the agreement, including producing specific requested information, extraction of data and reports. The Consultant, and any subconsultants, shall promptly support requests related to audits of the agreement, administrative functions and operations covered by this Agreement. The Authority will require access to the Consultant's environment which supports the systems used to provide services required under the agreement on a periodic basis; the hours to be determined, at the convenience of the Authority.

36. AUTHORITY ACCESS TO RECORDS

The Authority shall have access during normal business hours to all records and documents of the Consultant relating to any service provided under this Agreement, amounts for which it has been compensated, or claims the Consultant should be compensated, by the Authority above those included in the compensation set forth elsewhere herein. All Consultant records shall be kept in the Port District or in lieu thereof, Consultant may make the records available to the Port Authority in electronic form. The expenditures incurred for an audit of records outside of the Port District shall be paid by the Consultant. The Consultant shall obtain for the Authority similar access to similar records and documents of sub subconsultants. Such access shall be given or obtained both before and within a period of three (3) years after Final Payment to the Consultant, provided, however, that if within the aforesaid three year period the Authority has notified the Consultant in writing of a pending claim by the Authority under or in connection with this Agreement to which any of the aforesaid records and documents of the Consultant or of his sub subconsultants relate either directly or indirectly, then the period of such right of access shall be extended to the expiration of six (6) years from the date of Final Payment with respect to the records and documents involved.

The Consultant shall provide, at no cost to the Authority, access for and reasonable assistance to such auditors from the Authority or the Authority's external auditors that may, from time to time, be designated to audit detail records which support Consultant charges to the Authority. The Authority shall have access to the detail records that support Consultant charges to the Authority for up to three (3) years following the date of Final Payment of the Agreement.

No provision in this Agreement giving the Authority a right of access to records and documents is intended to impair or affect any right of access to records and documents that the Authority would have in the absence of such provision.

37. DEFINITIONS

As used in sections 26 to 36, the following terms shall mean:

Affiliate - Two or more firms are affiliates if a parent owns more than fifty percent of the voting stock of each of the firms, or a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the firms, or if the firms have a common proprietor or general partner.

Agency or Governmental Agency - Any federal, state, city or other local agency, including departments, offices, public authorities and corporations, boards of education and higher education, public development corporations, local development corporations, the Port Authority of New York and New Jersey and its wholly owned subsidiaries and others.

Investigation - Any inquiries made by any federal, state or local criminal prosecuting and/or law enforcement agency and any inquiries concerning civil anti-trust investigations made by any federal, state or local governmental agency. Except for inquiries concerning civil anti-trust investigations, the term does not include inquiries made by any civil government agency concerning compliance with any regulation the nature of which does not carry criminal penalties, nor does it include any background investigations for employment, or federal, state and local inquiries into tax returns.

Officer - Any individual who serves as chief executive officer, chief financial officer or chief operating officer of the Consultant by whatever titles known.

Parent - An individual, partnership, joint venture or corporation which owns more than 50% of the voting stock of the Consultant.

Retaliatory Action - Any adverse action taken by, or at the direction of, the Consultant, against any of its employees for reporting any information as set forth in the clause entitled “Obligation to Report,” above.

38. The Consultant shall provide its personnel, and shall require its subconsultants to provide their personnel, with Personal Protective Equipment (PPE) prior to entering the Facility, and shall replenish PPE periodically as appropriate. PPE is equipment worn to minimize exposure to hazards that may cause serious injuries and illnesses at the workplace. These injuries and illnesses may result from contact with biological, chemical, radiological, physical, electrical, mechanical, or other workplace hazards. PPE may include, but shall not be limited to, items such as face coverings, gloves, safety glasses, shoes, earplugs, muffs, hard hats, respirators, coveralls, vests and full body suits. The Consultant shall require its personnel, and shall require its subconsultants to require its personnel, to utilize such PPE as appropriate to the Port Authority Facility and Scope of Work covered under the Agreement or as may be required by the Port Authority. Regardless of the Scope of Work, face coverings are required to be worn at all times at all Port Authority Facilities, unless otherwise directed in writing by the Port Authority.

39. The entire agreement between the parties is contained herein and no change in or modification, termination or discharge of this Agreement in any form whatsoever shall be valid or enforceable

unless it is in writing and signed by the party to be charged therewith, or by his/her duly authorized representative, provided, however, that termination in the manner hereinbefore expressly provided shall be effective as so provided.

40. No Commissioner, officer, agent or employee of the Authority shall be charged personally by you with any liability or held liable to you under any term or provision of this Agreement, or because of its execution or attempted execution or because of any breach hereof.

41. References herein to the Authority shall and shall be deemed to mean equally the Port Authority Trans Hudson Corporation (PATH).

42. Nothing in this Agreement is intended to constitute the creation of an agency relationship between the Authority and the Consultant or any other right for the Consultant to act as the representative of the Authority for any purpose whatsoever except as may be specifically provided in this Agreement. It is hereby specifically acknowledged and understood that the Consultant, in performing its services hereunder, is and shall be at all times an independent contractor and the officers, agents and employees of the Consultant shall not be or be deemed to be agents, servants, or employees or "special employees" of the Authority.

43. This Agreement and any claim, dispute or controversy arising out of, under or related to this Agreement, the relationship of the parties hereunder, and/or the interpretation and enforcement of the rights and obligation of the parties hereunder shall be governed by, interpreted and construed in accordance with the laws of the State of New York, without regard to choice of law principles.

44. If the foregoing meets with your approval, please indicate your acceptance by signing the original and the additional enclosed copy in the lower left-hand corner and returning them to the Authority. Each party agrees that an electronic signature to this Agreement whether affixed digitally or transmitted by fax, email or other electronic means, is intended to authenticate such party's writing and to have the same binding and legal effect as an original signature.

Sincerely,

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

_____
Lillian D. Valenti
Chief Procurement Officer

Date _____

The execution of this Agreement by the Consultant's duly authorized representative shall serve as a certification that no alterations have been made to this Agreement, and if any changes or alterations to this Agreement have been made by the Consultant without the Authority's prior written consent, such changes shall be void, non-binding and of no effect.

ACCEPTED:

FIRM NAME

By: _____

Print Name: _____

Title: _____

Date: _____

Exhibit A - Standard Title VI/Non-Discrimination Statement/Requirements

As a condition of receiving Federal financial assistance from the United States Department of Transportation ("U.S. DOT") through any of its agencies, including but not limited to the Federal Highway Administration ("FHWA"), the Federal Transit Administration ("FTA") or the Federal Aviation Administration ("FAA") (hereinafter referred to collectively as "federal agency" or "federal agencies") , the Port Authority of New York and New Jersey, or any of its wholly owned subsidiaries, ("Recipient") requires that the following provisions are hereby made a part of any contract or agreement subject to the following statutory/regulatory authorities: Title VI of the Civil Rights Act of 1964 (42 U.S.C. §200d e*t seq*., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); 49 C.F.R Part 21(entitled *Nondiscrimination in Federally-Assisted Programs Of The Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964*); and 28 C.F.R. section 50.3, (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964), (which are hereinafter referred to as the "Acts" and "Regulations" respectively).

A. GENERAL CIVIL RIGHTS PROVISIONS

The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and subtier contractors from the solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

B. SOLICITATION NOTICE

The Port Authority of New York and New Jersey (Port Authority), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Additionally, all bidders (including proposers, and respondents, as applicable) are notified that the Port Authority will ensure that, with respect to any contract/agreement entered into pursuant to this advertisement, disadvantaged business enterprises, minority business enterprises and woman-owned business enterprises, as applicable, will be afforded full and fair opportunity to submit bids, proposals and responses, as applicable, in response to this invitation, and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

C. COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, **Federal Agencies**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the **Federal Agencies** to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the **Federal Agencies**, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the **Federal Agencies** may determine to be appropriate, including, but not limited to:
    a. withholding payments to the contractor under the contract until the contractor complies; and/or
    b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the **Federal Agencies** may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

D. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq*.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq*.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq*.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C.§ 1681 et seq).

Schedule A of Additional Insured

Property		Landlord/Owner
100 Broadway		Craven Management Corp, NW 100 Broadway Property Owner, LLC
115 Broadway		Trinity Center LLC
120 Broadway		120 Broadway Holdings,LLC
116 Nassau St		Abacus Federal Savings Bank
156 Williams Street		Macklowe Management, LLC , C/O William Macklowe Company, 156 WILLIAM STREET OWNER LLC, 156 WILLIAM STREET CONDOMINIUM, BOARD OF MANAGERS , BLUE SCHOOL REAL ESTATE LLC, WILLIAM MACKLOWE COMPANY, WMC PLATFORM I LP LLC, MANUFACTURERS AND TRADERS TRUST COMPANY, LASALLE INVESTMENT, MANAGEMENT INC., AS THEIR INTEREST MAY APPEAR, AND ALL THEIR PARTNERS, OFFICERS, SHAREHOLDERS, DIRECTORS, AND EMPLOYEES, RESPECTIVE HEIRS, AGENTS, SUCCESSORS, ASSIGNEES, AND ANY OWNED, CONTROLLED, AFFILIATED SUBSIDIARY COMPANY OR CORPORATION NOW EXISTING, HEREAFTER CONSTITUTED, AS THEIR INTEREST MAY APPEAR, INCLUDING ANY MORTGAGEES, OFFICERS, DIRECTORS, AGENTS, TRUSTEES OR OTHER DESIGNATED PARTIES REQUIRED BY WRITTEN AGREEMENT
One Liberty Plaza		Brookfield Properties
Gateway 1		Advance Realty Group
5 Marine View		Hoboken Associates LP, JSR Realty Co.
PATC		Trends Urban Renewal, LTD
JAMS- 777 Jersey Ave		JHR Realty CO
JFK and LGA		The City of New York

Teterboro		AFCO AvPorts Management LLC
Stewart		AFCO AvPorts Management LLC., The New York State Department of Transportation
1 WTC		1 WTC Retail LLC.
		1 World Trade Center LLC.
		STY Construction, Inc.
		New York State Department of Transportation.
		Tishman Construction Corporation.
		Tishman Realty & Construction Co., Inc.
		Tishman Construction Corporation of New York.
		Silverstein Freedom Tower Development LLC, and its Affiliates.
		2 World Trade Center LLC.
		3 World Trade Center LLC.
		4 World Trade Center LLC.
		World Trade Center Properties LLC.
		1 WTC Holdings LLC.
		2 WTC Holdings LLC.
		3 WTC Holdings LLC.
		4 WTC Holdings LLC.
		Silverstein Properties, Inc.
		Silverstein East WTC Facility Manager LLC.
		WTC Redevelopment LLC.
		Silverstein WTC Mgmt. Co. LLC.
		Silverstein WTC Mgmt. Co. II LLC.
		Silverstein WTC Properties LLC.
		Silverstein WTC LLC.
		Silverstein 2/3/4 WTC Redevelopment LLC.
		Spring World Inc.
		Spring WTC Holdings Inc.
		WTC Investors LLC.
		Net Lessees' Association of the World Trade Center.
		WTC Management and Development LLC.
		Silverstein WTC Management and Development LLC.
		WTC Investors Management and Development LLC.
		Larry A. Silverstein.
		World Trade Center Hold Co. Ltd.
		3 WTC Mezz LLC.
		The City of New York.
		The Lower Manhattan Development Corporation.
		The World Trade Center Memorial Foundation.
		Metropolitan Transportation Authority.

		WTC Tower 1 LLC.
		Battery Park.
		Durst 1 WTC Developer LLC.
		Durst 1 WTC LLC.
		Durst 4th Investors LLC.
		Durst Management and Development LLC.
		Durst WTC Corporation.
		Durst WTC Holding LLC.
		New WTC Retail N LLC.
		New WTC Retail Owner LLC.
		PA Retail Newco LLC.
		Royal 1 WTC Management LLC.
		Royal Realty Corp.
		SRDA Manager, LLC.
		The Durst Manager LLC.
		The Durst Organization Inc.
		The Durst Organization L.P.
		Tower 1 Holdings LLC.
		Tower 1 Joint Venture LLC.
		Tower 1 Member LLC.
		Towers LLC.
		WTC Retail LLC.
		WTC Tower 1 LLC.
		CBRE

"EXHIBIT I – Salary Schedule"

COMPANY LETTERHEAD

NAME	TITLE	ACTUAL HOURLY RATE

Please include a copy of your firm's salary schedule with your Proposal.

NO OTHER INFORMATION SHOULD APPEAR ON THE SALARY SCHEDULE OTHER THAN WHAT IS BEING REQUESTED.

- **Indicate the Names, Titles, and Hourly Rates that would be in effect at the start of the Agreement term**
- **Indicate billing rates for partners or principals and actual hourly rates for all other billable employees.**
- **Rates indicated should be for the Prime Consultant only, not subconsultants.**
- **Not Acceptable: Names left blank / "TBD"/Administrative Staff**