REQUEST FOR PROPOSAL

PERFORMANCE OF EXPERT PROFESSIONAL PROGRAM MANAGEMENT AND DESIGN BUILD SUPPORT SERVICES AS REQUESTED ON A "TASK ORDER" BASIS FOR A FOUR-YEAR TERM

RFP# 6000002611

PROPOSAL SUBMISSION TEMPLATE

I. BACKGROUND:

The Port Authority of New York and New Jersey (the "Authority" or "Port Authority") Task Order Program (the "Program") is initiated through an initial Request for Proposal (RFP) solicitation in order to be considered for the performance of expert professional program management and design build support services as requested on a "task order" basis defined in general terms. Once the Agreement is awarded to appropriately qualified firms, performance of specific services will be solicited via future task order RFP requests.

II. INSTRUCTIONS:

The Authority is seeking Proposals from firms in response to the subject RFP for the performance of support services in any, or all, of the following two categories: A) Program Management, B) Design Build, for a four-year term.

The scope of services to be performed by you are 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.

The Proposer must use this Proposal Template and Proposal forms. We have provided the Proposal Template and Proposal forms to Proposers as Microsoft Word format editable files. Proposers are permitted to add lines or rows to tables in the Proposal forms where this is indicated but must make no other material change to the Proposal Template or Proposal forms. We have not included page limits in the Proposal Template, but in providing responses to questions, the Proposer should use the space allocated in the Proposal Template and be mindful of the length the Proposer's response to the question asked.

All questions should be directed in writing via email to the Solicitation Manager, Edmund Mendrala, EMendrala@panynj.gov.

For purposes of Proposal presentation, the Firm proposing should separate each section of the Proposal by using a numbered tab, as shown in the table below.

III. PRE-PROPOSAL MEETING

The Pre-Proposal Meeting is intended to review requirements from the Authority Departments including Office of Diversity, Equity and Inclusion, Engineering, Treasury – Risk, and Procurement.

Firms are encouraged to attend the Pre-Proposal Meeting to gain more awareness regarding the services requested in this RFP, future task order solicitations, and the overall procurement process.

A virtual Pre-Proposal Meeting is scheduled on January 16, 2025 at 3:00 P.M. Eastern Time (ET). On January 16, 2025, please use the below link to access the meeting. If you have any issues connecting, please email Edmund Mendrala at EMendrala@panynj.gov.

Event address for attendees:
https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDM4NTk2MjYtNDM4NS00ZDI2LWE0YmQtNDJiNWY2ODRmNmRi%40thread.v2/0?context=%7b%22Tid%22%3a%22c4484a25-d0d8-4ad0-916a-a889b6aa7a02%22%2c%22Oid%22%3a%22b77d571b-97a7-4072-8150-a7571bf2930d%22%7d

IV. PROPOSER REQUIREMENTS:

Only proposals from Firms that can demonstrate compliance with one or both of the following category requirements shall be considered. The below requirements must be met by the Prime Firm only.

1. Program Management

   Prime Firm must demonstrate a minimum of three years' experience, within the past seven years, providing qualified support staff who:

   a. Possess a bachelor's degree in engineering or architecture or a related technical degree from an accredited college or university (copy to be submitted with resume); **and**

   b. Can demonstrate a minimum of five years' experience in the development and delivery of Architecture/Engineering projects, including:

      - Developing project management plans (one sample to be submitted with Attachment D – Staff qualifications and experience), **and**
      - Demonstrate knowledge of design and construction documents, schedules, and project costs.

2. Design Build

   Prime Firm must demonstrate a minimum of three years' experience, within the past seven years, providing qualified support staff who:

   c. Possess a bachelor's degree in engineering or architecture or a related technical degree from an accredited college or university (copy to be submitted with Attachment D – Staff qualifications and experience); **and**

   d. Can demonstrate a minimum five years' experience in the development, procurement, and delivery of:

- Design-build projects; **or**
- Transportation projects and possess an Associate Design-Build Professional Certification from the Design Build Institute of America (DBIA) or other certifiable demonstrated knowledge of Design-Build best practices (documentation to be submitted with Attachment D – Staff qualifications and experience).

3. Prime firm may alternatively fulfill prerequisite Item 1 and 2 above if it can demonstrate that the person(s) or entities owning and controlling the firm have had a cumulative total of at least the same number of years and type of direct continuous experience as identified or has owned and controlled other entities which, meet the same requirements, prior to the submission of this Proposal as is required of the prime firm.

A determination that a Prime Firm meets the forgoing requirement(s) is no assurance that the firm will be selected for performance of the subject services. Prime firms that do not meet these requirements shall not be considered.

V. INSTRUCTIONS AND ADDITIONAL INFORMATION:

Tab	Document	Instructions
1.	**Blue Cover Sheet**	The Firm proposing must include a completed cover sheet, • **Cover Sheet**
2.	**Agreement on Terms of Discussion (Attachment B)**	The Firm proposing must include a completed and signed, • **Attachment B** – Agreement on Terms of Discussion
3.	**Company Profile (Attachment C)**	The Firm proposing must include a completed, • **Attachment C** – Company Profile
4.	**Proposer Requirements**	The Authority will consider only those Firms who are able to demonstrate compliance with the proposer requirements stated in Section IV – Proposer Requirements. Only the Prime Firm's requirements will be considered. Firms may duplicate the below attachments as required, to demonstrate compliance with said **Proposer Requirements** listed in Section IV: • **Attachment D** – Staff Qualifications and Experience, and • **Attachment E** – Firm Qualifications and Experience Joint venture partnerships shall not be considered.
5.	**MBE/WBE/SDVOBs Participation Plan (Attachment F)**	The Port Authority has set a goal of twenty percent (20%) participation by qualified and Port Authority certified Minority Business Enterprises (MBEs) and ten percent (10%) for qualified and Port Authority certified Women-owned Business Enterprises (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 Service-disabled Veteran-owned Business Enterprises (SDVOBs) or SDVOBs certified in the State of New York.

		The Prime Firm must include their MBE/WBE/SDVOBs Participation Plan, being proposed, by completing the below form: • **Attachment F** – MBE/WBE/SDVOB Participation Plan
6.	**Cost (Attachment G)**	**Multiplier** – The Prime Firm proposing must include its multiplier, indicating all the multipliers components (e.g., vacation, holiday, sick pay, workers' compensation, office rent, insurance, taxes, profit). **Salary Schedule** – The Prime Firm proposing must include the name(s), title(s) and hourly rate(s) that would be in effect at the start of the Agreement term for all professional and technical personnel of the Prime Firm who will be assigned to perform any services requested by completing the below form: • **Attachment G** – Salary Schedule
7.	**Conflict of Interest (Statement)**	If the Firm proposing or any employee, agent or subcontractor/subconsultant of the Firm may have or may give the appearance of a possible conflict of interest, the Firm shall include in its Proposal a **Conflict of Interest Statement** indicating the nature of the conflict and a proposed **Mitigation Plan**. The Port Authority reserves the right to disqualify the Firm proposing if, in its sole discretion, any interest disclosed from any source could create, or give the appearance of, a conflict of interest. The Port Authority reserves the right to disqualify the Firm proposing if, in its sole discretion, it is not possible to mitigate the conflict of interest, with respect to any conflict disclosed from any source. The Port Authority's determination regarding any question(s) of conflict of interest shall be final.
8.	**Attachment A**	For your information only. A copy of Attachment A does not need to be included in your proposal submission. • **Attachment A**

ADDITIONAL INFORMATION		
1.	**Proposal Submission Instructions**	**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.** The Firm proposing 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 January 31, 2025.** 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. The Firms proposing 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. The Firms proposing will receive an email confirmation receipt with a unique confirmation number once a proposal submission is finalized. The Firm 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. All questions must be submitted in writing and received no later than five business days prior to the RFP due date. All questions shall be directed, via email, to the Solicitation Manager, Edmund Mendrala at EMendrala@panynj.gov.

2.	**Selection Process**	Proposals will be evaluated on a pass/fail basis on the technical qualifications demonstrated in the proposals with consideration of cost, as appropriate. After consideration of these factors, the Port Authority may enter into negotiations with the firm(s) deemed best qualified in terms of the foregoing factors to perform the required services.
3.	**Task Order Process**	Task orders with multiple awards may be distributed in an order established by the Port Authority (Authority) consistent with the intent of providing fair equity and competition. This shall be accomplished by the Authority establishing an order in which the selected firms are assigned task orders and utilizing that order for the full duration of the contract. Specifics regarding the processes for establishing an order for task order issuance and the effectuation of such will be provided prior to the issuance of the first task order under each multiple award Agreement. During the development of task orders, the aggregate total compensation already approved on previous task orders shall be monitored and tracked. The aggregate total compensation of all approved task orders in a term shall not exceed the maximum term amount allowed. The distribution process does not represent a contractual or other obligation on the part of the Port Authority and does not preclude the Port Authority from distributing work in a manner, which in its judgment will, under all circumstances, best serve the public interest

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RFP# 6000002611

[PROPOSAL DUE DATE]

[PROPOSER NAME]

2. AGREEMENT ON TERMS OF DISCUSSION (ATTACHMENT B)

Agreement on Terms of Discussion (Attachment B)

The Firm proposing must include a completed and signed Attachment B form.

ATTACHMENT B

PERFORMANCE OF EXPERT PROFESSIONAL PROGRAM MANAGEMENT AND DESIGN BUILD SUPPORT SERVICES AS REQUESTED ON A "TASK ORDER" BASIS FOR A FOUR-YEAR TERM

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)

3. COMPANY PROFILE (ATTACHMENT C)

Company Profile (Attachment C)

The Firm proposing must include a completed Attachment C form.

ATTACHMENT C
COMPANY PROFILE

1. Company Legal Name as shall appear in the Agreement:

_____

2. Business Mailing Address:

_____

_____

3. Business Telephone Number: _____
4. Federal Employer Identification Number (EIN): _____
5. Name, Address and EIN of Affiliates or Subsidiaries (use a separate sheet if necessary):

_____

_____

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

_____

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

_____

_____

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

   If yes, please provide your Vendor ID number: _____

9. 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/SDVOB 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.

4. PROPOSER REQUIREMENTS

The Authority will consider only those Prime Firms who are able to demonstrate compliance with the proposer requirements stated in Section IV – Proposer Requirements.

- Use **Attachment D** for Staff Qualifications and Experience
- Use **Attachment E** for Firm Qualifications and Experience

The Firm proposing must indicate below the services provided. (Please check all boxes that apply).

☐ Program Management ☐ Design Build

Joint venture partnerships shall not be considered under the "Task Order" Program

STAFF QUALIFICATIONS AND EXPERIENCE (ATTACHMENT D)

Staff Qualifications and Experience of Personnel:

Please complete one Attachment D for each proposed full-time engineering and technical personnel of the Prime Firm who will be assigned to perform the requested services to demonstrate that the Prime Firm meets the staffing requirements as stated in Section IV – Proposer Requirements. Firms may duplicate Attachment D, as required, to demonstrate compliance with Section IV.

The Firm proposing must include in this section the following completed form(s):

Attachment D – Staff Qualifications and Experience

Licenses and Certificates – The Proposer must also provide in this section copies of all applicable licenses and certificates of all full-time engineering and technical personnel of the Prime Firm needed to demonstrate compliance with Section IV.

ATTACHMENT D

STAFF QUALIFICATIONS AND EXPERIENCE

<table>
<tr><td>FULL NAME</td><td>TITLE</td><td colspan="2">YEARS OF RELEVANT EXPERIENCE</td></tr>
<tr><td></td><td></td><td>TOTAL</td><td>WITH CURRENT FIRM</td></tr>
<tr><td>FIRM NAME (Indicate Certification Status, if any)</td><td>LOCATION (City and State)</td><td></td><td></td></tr>
<tr><td></td><td></td><td colspan="2" rowspan="2">CURRENT PROFESSIONAL REGISTRATION
(State and Discipline -Include License #)</td></tr>
<tr><td colspan="2">EDUCATION (Degree and Specialization)</td></tr>
</table>

OTHER PROFESSIONAL QUALIFICATIONS (Publications, Organizations, Training, Awards, Etc.)
BRIEF CAREER SUMMARY **(Please include total number of years of experience performing comparable services under this solicitation)**
RELEVANT PROJECTS **(Include a minimum of two and no more than five completed projects comparable to the services contemplated under this solicitation)**

(1) TITLE AND LOCATION (City and State)	**PROJECT DURATION (MM/YYYY through MM/YYYY)**
BRIEF PROJECT DESCRIPTION AND SPECIFIC ROLE ON PROJECT **(Please include scope, size, project cost value, project delivery model)**	**☐ Check if project performed with current firm**
(2) TITLE AND LOCATION (City and State)	**PROJECT DURATION (MM/YYYY through MM/YYYY)**
BRIEF PROJECT DESCRIPTION AND SPECIFIC ROLE ON PROJECT **(Please include scope, size, project cost value, project delivery model)**	**☐ Check if project performed with current firm**
(3) TITLE AND LOCATION (City and State)	**PROJECT DURATION (MM/YYYY through MM/YYYY)**
BRIEF PROJECT DESCRIPTION AND SPECIFIC ROLE ON PROJECT **(Please include scope, size, project cost value, project delivery model)**	**☐ Check if project performed with current firm**

(4) TITLE AND LOCATION (City and State)	**PROJECT DURATION (MM/YYYY through MM/YYYY)**
BRIEF PROJECT DESCRIPTION AND SPECIFIC ROLE ON PROJECT (Please include scope, size, project cost value, project delivery model)	**☐ Check if project performed with current firm**
(5) TITLE AND LOCATION (City and State)	**PROJECT DURATION (MM/YYYY through MM/YYYY)**
BRIEF PROJECT DESCRIPTION AND SPECIFIC ROLE ON PROJECT (Please include scope, size, project cost value, project delivery model)	**☐ Check if project performed with current firm**

FIRM QUALIFICATIONS AND EXPERIENCE (ATTACHMENT E)

Firm Qualifications and Experience of Personnel:

Please complete one Attachment E for each relevant project to demonstrate that the Prime Firm meets the firm experience as stated in Section IV – Proposer Requirements. Listed projects shall be comparable to those contemplated under the requested services in Attachment A. Firms may duplicate Attachment E, as required, to demonstrate compliance with Section IV.

The Proposer must include in this section the following completed form:

- **Attachment E** – Firm Qualifications and Experience

ATTACHMENT E

FIRM QUALIFICATIONS AND EXPERIENCE

RELEVANT PROJECTS **Include the relevant projects as outlined in Section IV – Proposer Requirements and comparable to the services contemplated under this solicitation.**	
A. FIRM NAME	**CERTIFICATION STATUS, IF ANY**
B. PROJECT TITLE AND LOCATION (City and State)	**PROJECT DURATION (MM/YYYY through MM/YYYY)**
C. BRIEF PROJECT DESCRIPTION AND SPECIFIC ROLE ON PROJECT (Please include scope, size, project cost value, project delivery model)	
D. INDICATE WHETHER ANY PROPOSED PERSONNEL PERFORMED SERVICES UNDER THIS PROJECT AND EXPLAIN THEIR SPECIFIC ROLE ON THIS PROJECT	
E. INCLUDE THE NAME OF THE CLIENT/COMPANY AND THE CLIENT/COMPANY'S CONTACT INFORMATION (EMAIL AND PHONE NUMBER), FOR VERIFICATION PURPOSES.	

5. MBE/WBE/SDVOB PARTICIPATION PLAN (ATTACHMENT F)

MBE/WBE/SDVOBs Participation Plan

The Port Authority has set a goal of twenty percent (20%) participation by qualified and Port Authority certified Minority Business Enterprises (MBEs) and ten percent (10%) for qualified and Port Authority certified Women-owned Business Enterprises (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 Service-disabled Veteran-owned Business Enterprises (SDVOBs) or SDVOBs certified in the State of New York.

The MBE/WBE/SDVOB Plan submitted by the Prime Firm to the Port Authority shall contain, at a minimum, the following:

- Identification of MBE/WBE/SDVOBs: Provide the names and addresses of the MBE/WBE/SDVOBs. If none are identified, describe the process for selecting participant firms in order to achieve the good faith goals under these requested services.
- Scope of Work: Describe the specific scope of work the MBE/WBE/SDVOBs will be expected to perform.

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

If the Prime Firm is a Port Authority certified MBE or WBE, the Prime Firm can self-perform its portion of the participation goals of up to $2 million for non-construction projects, subject to the Port Authority's approval. Port Authority certified M/WBE Prime Firms can only self-perform the MBE portion of the participation goals. However, note that all firms are encouraged to use every good-faith effort to utilize subconsultants who are Port Authority certified MBEs, WBEs or SDVOBs to the maximum extent feasible.

The Prime Firm must include in this Section the following completed form:

- **Attachment F** – The MBE/WBE/SDVOB Plan submitted by the Proposer to the Port Authority

ATTACHMENT F

MBE/WBE/SDVOB PARTICIPATION PLAN

This matrix is intended to graphically depict the MBE/WBE/SDVOB Participation Plan submitted by the Prime Firm to the Port Authority for the requested services.

FIRM NAME	ADDRESS	INDICATE CERTIFICATION STATUS WITH PORT AUTHORITY	DESCRIBE PROPOSED SCOPE OF WORK TO BE PERFORMED BY SUBCONSULTANT

IF NO FIRMS ARE IDENTIFIED ABOVE, DESCRIBE THE PROCESS FOR SELECTING PARTICIPANT FIRMS IN ORDER TO ACHIEVE THE GOOD FAITH GOALS UNDER THESE REQUESTED SERVICES.
[IF APPLICABLE, INSERT RESPONSE HERE]

6. COST (ATTACHMENT G)

Multiplier & Cost

Provide the multiplier(s) of the Prime firm, including a breakdown of said multiplier(s), indicating all the multiplier(s) components (e.g., vacation, holiday, sick pay, workers' compensation, office rent, insurance, taxes, profit). Indicate Consultant Office/Port Authority Office Multiplier, as applicable. Multiplier(s) should be provided in the form of a decimal and no more than two decimal places (ex: 0.00).

Consultant Office Multiplier:

Port Authority Office Multiplier:

Include a breakdown of the multiplier(s) components below:

Salary Schedule

Include the name(s), title(s) and hourly rate(s) assigned to each position of the personnel that would be assigned to perform the requested services. Indicate billing rates for partners or principals and actual hourly rates for all other billable employees. All firms who are awarded an Agreement will be expected to adhere to the provisions of Section 9.A., fourth paragraph with respect to rate increases. Firms shall not include any rate increase notations on their Salary Rate Schedule.

Typical job titles may include, but are not limited to, the following:

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

The Proposer must include in this section the following completed form:

- **Attachment G** – Salary Rate Schedule

ATTACHMENT G

SALARY RATE SCHEDULE

FULL NAME (LAST, FIRST)	TITLE	ACTUAL HOURLY RATE	BILLING RATE (Principals and Partners)

7. CONFLICT OF INTEREST (STATEMENT)

Conflict of Interest

If the Firm proposing or any employee, agent or subcontractor/subconsultant of the Firm proposing may have or may give the appearance of a possible conflict of interest, the Firm shall include in its proposal a statement indicating the nature of the conflict. The Port 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 Port Authority's determination regarding any question(s) of conflict of interest shall be final.

The Firms proposing are advised that, while not currently anticipated, nothing herein shall preclude the Port Authority from determining at a subsequent point in time during performance of the services contemplated hereunder gives rise to the existence of, or the appearance of, a conflict of interest, and thereby conclude that a firm(s) selected for performance of the subject services, is/are expressly precluded from participation in, or the performance of other procurement opportunities for any project on which the firm has provided such services. Firms are directed to the Conflict-of-Interest paragraph of the attached Standard Agreement. Firms 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.

Conflict of Interest Statement (describe the nature of the conflict):

[INSERT RESPONSE HERE]

Mitigation Plan:

[INSERT RESPONSE HERE]

ATTACHMENT A

SCOPE OF SERVICES

PERFORMANCE OF EXPERT PROFESSIONAL PROGRAM MANAGEMENT AND DESIGN BUILD SUPPORT SERVICES AS REQUESTED ON A "TASK ORDER" BASIS FOR A FOUR-YEAR TERM

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://www.panynj.gov/corporate-information/annual-reports.html.

The Engineering Department is responsible for the delivery of high-quality and cost-effective planning, architectural and engineering design, and construction management services in support of the Authority's capital and operating programs. In addition, the department ensures the structural integrity, life safety, and code compliance of all Authority's facilities. The Engineering Department is comprised of six divisions: Engineering/Architecture Design, Construction Management, Engineering Operations, Quality Assurance, Project Delivery, and Enterprise Asset Management.

The Engineering Project Delivery (EPD) division supports the agency in efficient delivery of its Capital Plan and Agency Major Maintenance Program (AMMP). EPD is responsible for the oversight of the engineering portfolio of projects within the respective line departments. We work closely with line departments to set project schedules and budgets, track delivery of projects to ensure adherence to Capital Plan baseline, lead agency State-of-Good-Repair prioritization efforts, support alternative project delivery, develop associated board authorizations, and assist lessons learned efforts.

II. SCOPE OF SERVICES

The services of the Consultant shall generally consist of providing the Engineering Department with Program Management support services for project management and Design Build services in support of the design build and alternative project delivery program. Associated tasks may include but are not limited to those outlined below.

III. DESCRIPTION OF CONSULTANT'S TASKS

Services requested via task orders may include but are not limited to the following.

Staff Qualifications (to be demonstrated once specific task orders are issued)

Refer to the Authority's Agreement, Section 23 – Notification of Security Requirements

- All proposed staff must have the ability to pass a Transportation Worker Identification Credential (TWIC) and/or Secure Worker Access Consortium (SWAC) and/orSecurity Identification Display Area (SIDA) background screening at a High Level.
- Staff must have a valid driver's license.

Consultant Tasks (to be demonstrated once specific task orders are issued)

Tasks to be performed by the Consultant for any, all, or combination of categories below shall include, but are not limited to:

A. Program Management

a. Develop Project Management plans covering conceptual development through construction completion including staff budgets and baseline schedules for all project/program elements.

b. Lead project meetings, documenting and recording minutes and action items.

c. Develop the project scope, schedule, and budget for various stages of project delivery.

d. Coordinate preparation of study reports, construction cost estimates, preliminary and final contract documents

e. Assist in preparation of project risk management plans and provide risk allocation recommendations. Participate in period re-evaluation of risk and mitigation in-place measures.

f. Report to senior staff, as required, on project progress, issues and actions and schedule and budget status.

g. Lead the reporting of Engineering Department resource expenditures, related to major programs, to ensure adequate soft cost allocations and tracking for major programs.

h. Attend meetings with various internal and external stakeholders as the Engineering Department representative in order to advance the interests of the program while fostering improved cooperative relationships with all groups.

B. Design Build

a. Report to senior staff, as required, on project progress, issues and actions and schedule and budget status.

b. Lead project commercial, technical, and submittal management aspects.

c. Lead project meetings, documenting and recording minutes and action items.

d. Develop, coordinate, implement and provide oversight of the project management plans covering conceptual development through construction completion, including staff budgets and baseline schedules, for all project/program elements.

e. Develop and lead project delivery alternative feasibility assessments/evaluations for, including but not limited to, design-build, integrated project delivery, construction manager at risk, public private partnership, and turn-key construction.

f. Prepare project risk management plans and provide recommendations regarding risk allocation between the Port Authority and Design-Builder in the contract.

g. Provide design-build solicitation support services including the development of procurement plans, approach to qualifications, technical and price evaluations.

h. Assist in the development of Instruction to Proposers (ITP), Request for Qualifications (RFQ) and Request for Proposals (RFP). Coordinate the Requirement and Provisions for Work (RPW) for design build contract reviews and as necessary, provide guidance on adjustments to general provisions, for project specific needs.

i. Assist the Authority throughout the design-build procurement process. Including, attending Collaborative Dialogue Meetings (CDM), review of Alternative Technical Concepts (ATC), review of Alternate Proposals (AP), review/respond to Requests for Information (RFIs), and technical review of final Design-Builder proposals.

j. Oversight reviews of design-builder submittals to ensure compatibility with the owner's project management plan in addition to quality management compliance of design-builder's design, construction, operational and quality components.

IV. SUBMISSIONS

All work performed by the Consultant including but not limited to the preparation of documents, plans, reports, schedules, budgets, procurements, estimates etc., shall be performed, and submitted in accordance with a schedule approved by the Authority, prior to the performance of any such work. All work developed or prepared by the Consultant shall be the property of and delivered to the Authority including but not limited to documentation, reports, diagrams, standard operating procedures, user guides, and training material.

V. CONDITIONS AND PRECAUTIONS

A. General

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

Vehicular, aircraft, rail, and/or pedestrian traffic shall have priority over any and all of the Consultant's operations.

B. Work Areas

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

The Consultant shall take steps necessary to ensure the safety of its staff during performance of the work. All Personal Protective Equipment (PPE), including, but not limited to, safety shoes, hardhat, and safety vest, shall be worn for all field work. In addition, where necessary, fall protection equipment shall be utilized.

Photography of the Authority facilities and surrounding areas is not permitted without approval from the Authority.

C. Work Hours

The Consultant shall coordinate its work at the site(s) with the Project Manager, unless otherwise directed by Authority.

The Authority's office is located at 4 World Trade Center, New York, New York. Proposed staff will be required to meet the Authority's current work arrangements including physically work a minimum of three days per week in the office and two days per week remotely, unless otherwise directed by the Authority.

***

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 PROGRAM MANAGEMENT AND DESIGN BUILD SUPPORT SERVICES AS REQUESTED ON A "TASK ORDER" BASIS FOR A FOUR-YEAR TERM

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, "Chief Engineer" shall mean the Chief Engineer, or the Deputy Chief Engineer of the Authority, or their duly authorized representatives.

For the purpose of administering this Agreement, the Chief Engineer has designated 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 Chief Engineer.

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 Chief Engineer for approval, an estimated cost and staffing analysis of such services. You shall begin performing services under this Agreement upon your receipt of the Chief Engineer'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 8 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 Chief Engineer 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 Chief Engineer in connection with any service to be performed herein. Any Contract Drawings, Technical Specifications and/or other items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Chief Engineer. The Chief Engineer may disapprove if, in their sole opinion, said items are not in accordance with the requirements of this Agreement, sound engineering principles or 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 Chief Engineer, 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, a complete, practical, economical design and Contract Drawings and Technical Specifications (and corrections and changes thereto) which are best suited for the contemplated construction, or services, are done in accordance with sound engineering principles and are signed and sealed by a licensed Professional Engineer.

6. When services to be performed by the Consultant include the preparation of contract documents, or the performance of post award services, the Consultant shall submit its specific Quality Control/Assurance Program to the Chief Engineer prior to the performance of said services. Upon completion of specific services requested hereunder, the Consultant shall submit a letter to the Chief Engineer certifying the Consultant's conformance with the aforementioned Quality Control/Assurance Program.

7. When the services to be performed by the Consultant include the preparation of computer aided design and drafting (CADD) documents, said documents must be prepared using the latest available revision of Autodesk's "AUTOCAD" software or as directed by the Chief Engineer prior to the performance of specific services. All drawings shall be prepared in strict conformance to the Port Authority CAD Standards. All submissions of CAD drawings shall be submitted to the Authority on compact discs, uploaded to the Project Website, or as otherwise required, in DWG and DWF format in accordance with the Port Authority CAD Standards.

8. 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 Chief Engineer. 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.

9. 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 8 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 architects, engineers, 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 Chief Engineer 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 9.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 9.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 Chief Engineer 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 Chief Engineer 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 Chief Engineer. 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 Chief Engineer 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 Chief Engineer, 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 Chief Engineer 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 Chief Engineer. 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 Chief Engineer'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 architects, engineers, designers, drafters or other 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.

10. 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.

11. On or about the fifteenth (15th) 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 or as otherwise notified by the Authority. Each invoice shall bear your taxpayer number and the purchase order number provided by the Chief Engineer. Upon receipt of the foregoing, the Chief Engineer 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 Chief Engineer advance to you by check the sum certified minus all prior payments to you for your account.

12. 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.

13. 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 Chief Engineer, 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 Chief Engineer.

14. 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.

15. No certificate, payment (final or otherwise), acceptance of any work nor any other act or omission of the Authority or the Chief Engineer 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.

16. Mylars of the 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.

17. 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.

18. 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 Chief Engineer. 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.

19. You shall promptly and fully inform the Chief Engineer 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.

20. 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 Chief Engineer. 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.

21. 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.

22. 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 12 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."

23. 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.

24.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 Chief Engineer 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.

25. 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.

26. LIABILITY INSURANCE AND WORKERS' COMPENSATION INSURANCE

The Consultant and its Subconsultant(s) shall take out, maintain, and pay the premiums on insurance coverages required below, for the life of the Contract. General Liability Insurance shall be written on an ISO occurrence form CG 00 01 0413 or its equivalent covering the obligations assumed by the Consultant under this Contract, and including but not limited to premises-operations, products, completed operations, and independent contractors' coverage, with contractual liability language covering the obligations assumed by the Consultant under this Contract.

Commercial General Liability Insurance –$2 million per occurrence for bodily injury and property damage liability

Automobile Liability Insurance –$2 million per accident for bodily injury and property damage liability covering any auto, owned, non-owned, rented or hired automobiles

Workers' Compensation and Employers Liability Insurance – to statutory limits and in accordance with the requirements of law in the state(s) where work will take place, and Employer's Liability Insurance of not less than $1 million for bodily injury by accident and $1 million for bodily injury by disease, and at least a $1 million policy limit.

Professional Liability Insurance –$2 million each occurrence, covering acts, errors, mistakes, and omissions arising out of the work or services performed by Consultant or any person employed by the Consultant.

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 $1 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 $1 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.

The liability insurance "other than professional" 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 shall provide and encompass at least the following coverages:

Coverage for explosion, collapse and underground property damage (XCU) is not excluded; The insurance coverage (including primary, excess and/or umbrella) hereinafter afforded by the Consultant and all Subconsultant(s) shall be primary insurance and non-contributory with respect to insurance purchased by the additional insureds; Excess/umbrella policies shall "follow form" to the underlying policy; Excess/umbrella policies shall have a liberalization clause and a drop down provision; To the extent any coverage the Consultant and Subconsultant(s) obtains and/or maintains under this Contract contains "Other Insurance" language or provisions, such 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, unless forbidden 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 and/or its Subconsultants obtains and/or maintains insurance in an amount greater than the minimum limits required under this Contract, then the full limits of that insurance coverage will be available to respond to any claim asserted against the additional insureds that arises out of or is in any way connected with this Contract; Additional insureds coverage shall not be restricted to vicarious liability unless required by controlling law.

In addition, the additional insured provisions for the general liability and umbrella 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) endorsed to also include as an additional insured: "The Port Authority of New York and New Jersey and its related entities, including Port Authority Trans Hudson Corporation, (PATH), their Commissioners, Directors, Superintendents, officers, partners, employees, agents, their affiliates, successors or assigns" as **Additional 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). The "Additional 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 on the Commercial General Liability Policy. Such additional insureds status shall be provided regardless of privity of contract between the parties. The liability policy (ies) and certificates of insurance shall contain separation of insured or severability of interests clauses 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 is responsible for all deductibles and losses not covered by commercially procured insurance. Any portion of the coverage to be provided under a Self-Insured Retention (SIR) of the Consultant is subject to prior review and approval of the General Manager, Risk Finance. If any part of the insurance is self-insured, Consultant and its Subconsultants agrees to treat all losses within the self-insured retention as though commercial insurance is in place, including providing defense to the Additional Insured. Furthermore, any insurance or self-insurance maintained by the additional insureds shall not contribute to any loss or claim.

If any of the Work is to be done on or at Port Authority facilities by Subconsultants and, if the Consultant requires its Subconsultants to procure and maintain such insurance in the name of the Consultant, 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 section known as "Insurance Procured by the Consultant". All insurance coverage shall be provided by the Consultant and/or by or for any of its Subconsultants at no additional expense to the Port Authority and its related entities. A copy of this section titled "Insurance Procured by the Consultant" shall be given to your insurance agent and Subconsultants and

shall form a part of the covered contract or subcontract for insurance purposes in furtherance of the insurance requirements under this Contract.

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 Subconsultants are accurate, adequate and in compliance with the Port Authority requirements; and the Consultant is to retain a copy of its Subconsultants' certificates of insurance. All certificates of insurance shall be turned over to the Port Authority prior to the start of work, including Subconsultants' work, and upon completion of the Contract. 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. 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 Port Authority Att: Facility Contract Administrator, at the location where the work will take place with a copy to the **General Manager, Risk Finance.**

The Port Authority may, at any time during the term of this Contract, change or modify the limits and coverages of insurance.

Within five (5) days after the award of this Contract and prior to the start of any work, the Consultant must submit an original certificate of insurance to the Port Authority Facility Contract Administrator, 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 cancellation notice endorsement, and state the contract number prior to the start of work. The Consultant is also responsible for maintaining and conforming to all insurance requirements from the additional insureds and their successors or assigns. The General Manager, Risk Finance must approve the certificate(s) of insurance before any work can begin. Upon request by the Port Authority, the Consultant shall furnish to the General Manager, Risk Finance, a certified copy of each policy, including the premiums.

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

Initial certificates should be submitted to the Port Authority Contract Administrator, Renewal certificates of insurance or policies shall be emailed to certificates-portauthority@riskworks.com, 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 Finance 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 Port Authority, the Consultant shall promptly obtain a new and satisfactory certificate and policy and provide same to the Port Authority. Failure by

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

The requirements for insurance procured by the Consultant and Subconsultant(s) shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Consultant or its liability under this Contract. The insurance requirements are not a representation by the Port Authority as to the adequacy of the insurance necessary to protect the Consultant against the obligations imposed on it by law or by this or any other contract.

27. 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.

28. 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;

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; and

I. been, and is not currently, in collections with respect to unpaid tolls to the Port Authority.

29. 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 limited liability company, then with respect to the Consultant and each parent, Affiliate, manager, member, director and officer;

* 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 "29G.", 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

35. 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.

36. 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).

37. DEFINITIONS

As used in sections 28 to 36, the following terms shall mean:

"**Affiliate**" shall mean in relation to any Person, any other Person that, (i) directly or indirectly, through one or more intermediaries Controls or is Controlled by or is under common Control with that Person,

(ii) has a ten percent (10%) or more voting or economic interest in that Person; or (iii) if the Person shall be a corporation whose voting securities shall be registered with the Securities and Exchange Commission and publicly traded on a regular basis, then only such shareholder of the Person having an ownership interest greater than five percent (5%).

"Agency" or "Governmental Entity" shall mean 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.

"**Control**" shall mean the possession, directly or indirectly, of the power, exercisable jointly or severally (and whether or not currently exercised), to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. A Person may have Control of a specified Person notwithstanding that (a) one or more third parties may have rights to participate in major decisions of such specified Person and/or (b) it does not own fifty percent (50%) or more of the beneficial interests of such specified Person. This definition shall apply to the terms "Control", "Controlling", "Controlled by" and "under common Control with".

"Investigation" shall mean 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" shall mean any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the Consultant by whatever titles known.

"**Person**" shall mean an individual, a company, an association, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, a consortium, an unincorporated organization, a Governmental Entity, or other legal entity.

"Parent" shall mean 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 Contractor, against any of its employees for reporting any information as set forth in the clause entitled "Obligation to Report," above.

If the solicitation is a Request for Proposal:
Bid - shall mean Proposal;
Bidder - shall mean Proposer;
Bidding - shall mean submitting a Proposal.

In a Contract resulting from the taking of bids:
Bid - shall mean bid;
Bidder shall mean Bidder; except and until the Contract has been awarded, then it shall mean Contractor;
Bidding - shall mean executing this Contract.

In a Contract resulting from the taking of Proposals:
Bid - shall mean Proposal;
Bidder - shall mean Proposer; except and until the Contract has been awarded, then it shall mean Consultant;
Bidding - shall mean executing this Agreement.

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 may be required to be worn at Port Authority Facilities.

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 their 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 identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and subcontractors 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, businesses 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 (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability 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 Title VI List of Pertinent Nondiscrimination Acts and Authorities, 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, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability 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 Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR 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 Nondiscrimination Acts and Authorities 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);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- 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).