

January 4, 2013

SUBJECT: REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL ACTUARIAL VALUATION SERVICES FOR OTHER POST-EMPLOYMENT BENEFITS (RFP# 31884)

Dear Sir or Madam:

The Port Authority of New York and New Jersey (the “Authority”) is seeking proposals (“Proposals”) in response to this Request for Proposals (RFP) for a firm (the “Firm”) to provide Expert Professional Actuarial valuation Services for the Authority’s other post-employment benefits (OPEB). The scope of the tasks to be performed by the Firm are set forth in Attachment A to the Authority’s Standard Agreement (the “Agreement”). You should carefully review this Agreement as it is the form of agreement that the Authority requires that you sign in the event of acceptance of your proposal (“Proposal”) and forms the basis for the submission of Proposals.

I. PROPOSER REQUIREMENTS

The Authority will consider only those Proposals from firms (“Proposers”) who are able to demonstrate that they meet the following qualification requirement(s):

- A. At the time of proposal submittal, the proposer must have been engaged in the performance of actuarial valuation services for at least ten (10) years. A copy of the certificate of incorporation or an approved equivalent must be furnished.
- B. The actuarial firm must possess a valid professional license(s). A copy of the license(s) must be attached to the proposal.
- C. The actuarial firm shall have successfully performed within the past three (3) years, or is currently under contract to perform, actuarial consulting services for the valuation of post-retirement benefits other than pensions for at least three (3) clients that are comparable to the Authority. Please include the following information for each such client in a written statement:
 - name and address of client
 - reference contact, title and telephone number
 - type of entity
 - period of time services are/were provided
 - annual compensation

2 Montgomery Street, 3rd Floor

Jersey City, NJ 07302

- D. The actuarial firm must maintain an office within the New York/New Jersey metropolitan region.

If submitting as a common law joint venture, at least one (1) member must meet the foregoing requirements.

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

II. PROPOSAL FORMAT REQUIREMENTS

To respond to this RFP, the Proposer shall submit a concise Proposal complying with the following requirements:

- A. To be acceptable, the Proposal shall be of no more than thirty (30) pages single-sided or fifteen (15) pages double-sided, using 12-point or greater font size, not including resumes. This limit does not include Section III, items: A, B, E, H, I, J, and K below nor section and/or tab dividers. Each resume shall be 2-page maximum, single-sided or 1-page double-sided, using 12-point or greater font size. Product brochures and other sales literature will not be accepted as substitutes for written responses to this RFP. The Proposal pages shall be numbered and bound, with "Your Firm Name," and **RFP Number 31884** clearly indicated on the cover.
- B. Each section of the Proposal shall be separated with a tab divider that is labeled in accordance with the letter of the requirements specified below in Section III.
- C. All proposals must be delivered in sealed envelopes and/or packages. Address the Proposal to: The Port Authority of New York and New Jersey, 2 Montgomery Street, 3rd Floor, Jersey City, NJ 07302, **Attention: RFP Custodian**. Do not address your Proposal to any other name. You are required to submit one (1) reproducible original and five (5) copies, along with one (1) compact disc copy, of your Proposal for review. In case of conflict, the reproducible original of the Proposal shall take precedence over material on the compact disc.
- D. In each submission to the Authority, including any return address label, information on the compact disc and information on the reproducible original and copies of the Proposal, the Proposer shall use its **FULL LEGAL NAME WITHOUT ABBREVIATIONS**. Failure to comply with this requirement may lead to delays in contract award and contract payments, which shall be the responsibility of the Proposer.
- E. Provide the address of your firm to which any written correspondence should be sent.
- F. Your Proposals should be forwarded in sufficient time so that the Authority receives them **no later than 2:00 p.m. on January 30, 2013**. The cover of your submittal must include the RFP Number (as stated above) and the RFP title. The Authority assumes no responsibility for delays caused by any delivery services or impediments to delivery created by inclement weather.

- G. If your Proposal is to be hand-delivered, please note that only individuals with proper identification (e.g. photo identification) will be permitted access to the Authority's offices. Individuals without proper identification will be turned away and their packages not accepted.

III. SUBMISSION REQUIREMENTS:

To respond to this RFP, proposals shall provide the following information. Each Section and sub-section needs to be addressed in the order listed:

A. Agreement on Terms of Discussion

In accordance with Authority policy, you are required to include in the front of your Proposal, a copy of Attachment B, Agreement on Terms of Discussion, signed by an officer of your company.

B. Transmittal Letter

Each Proposer shall submit a transmittal letter on its letterhead, signed by an authorized representative, demonstrating compliance with each of the aforementioned "Proposer Requirements" listed above. Your transmittal letter shall also include the following:

1. A statement indicating whether the Firm is proposing as a single entity or joint venture. If a joint venture, submit all information required for a single entity for each participant in the joint venture. If the Proposer is a joint venture and seeks to propose as such, the joint venture Proposer must meet the prerequisites. All the qualification information required for a single entity shall be submitted for each participant in the joint venture. If a joint venture submits a proposal, all participants in the joint venture shall be bound jointly and severally, and each participant shall execute the Proposal. If a joint venture is invited to deliver a formal presentation of how it proposes to perform the services outlined herein, the joint venture must be composed of the same participants as were in the joint venture when it submitted the Proposal. No substitution of participants will be allowed after submission of the Proposal without the express prior written permission of the Authority.
2. Submit a copy of any written agreement, or understanding, which exists between each party to the joint venture as part of the Proposal. If no written agreement or understanding exists, a Lead Proposer shall be identified and the joint venture shall include in its Proposal a written statement explaining how the joint venture will fulfill the requirements of the Agreement. Such explanation shall fully discuss and identify the responsibility of each party to the joint venture for performing the Work, and for providing the required insurance.
3. Complete a copy of Attachment C (Company Profile).

C. Firm Qualifications and Experience.

- 1) Describe your firm's history and organizational structure. Include number of years in business, size of company (must include employees, yearly revenue, and total assets under management).

- 2) Firm's ownership, capital structure, and specific details of any affiliated companies or joint ventures and/or affiliations with other financial or actuarial valuation firms. Specify the percentage owned by principals.
- 3) Provide an organizational chart that diagrams the interrelationships between the professional staff as well as any parent-subsiary, affiliate, or joint venture entities.
- 4) Discuss the financial condition of the firm based on the most recently audited financial statements and annual report.
- 5) Indicate the number of accounts of your client base in terms of assets under management. Please segment as follows:
 - a) \$5 million to \$25 million;
 - b) \$25 million to \$100 million;
 - c) \$100 million to \$500 million; and
 - d) \$500 million or more.
- 6) Describe your firm's experience in the actuarial valuation business dealing with funds similar to an OPEB fund and the scope of services described in this RFP.
- 7) Provide a representative client list, the size of portfolio, the number of OPEB Trust clients (if any), and the number of clients who are public agencies. Include at least three client references.
- 8) Provide the total assets and total accounts currently serviced by your firm.
- 9) List any pending administrative proceedings, investigations and civil suits against the firm relating to the firm's performance of professional duties.
- 10) List all litigation or proceedings to which your firm is a party and which would either (a) materially impair your ability to perform the services enumerated herein and for which this RFP was issued, or (b) if decided in an adverse manner, could be reasonably expected to have a material effect on the financial condition of your firm.
- 11) Describe your firm's philosophy regarding account or relationship management.
- 12) What is your firm's plan regarding the backup of computer files and systems? In the event of a disaster how long would it take to become fully functional?
- 13) Please explain in no more than one (1) page your competitive advantage and why your firm should be hired to provide these services.

D. Staff Qualifications and Experience

In this section, identify the key personnel responsible for implementing the scope of work described in Attachment A and highlight their relevant experience and technical capabilities. Key personnel are staff who meet or exceed the qualification requirements outlined in Section I above and demonstrate their ability to perform the contemplated services required to successfully complete this project.

- 1) Provide the name(s), title(s), number of years of industry experience, and bios of all key valuation professionals you are proposing to be involved in the management of this engagement and the role each will play in managing the Authority's account.
- 2) Are actuarial valuation professionals under employment contract? If so, please discuss the nature of the contracts.
- 3) Describe any contingent procedures in the event a key valuation professional assigned to the account should leave the firm.
- 4) Identify the qualifications and training programs your firm requires for members of the actuarial team and your firm's training programs (initial, ongoing, and periodic) for such staff.
- 5) All services performed within the scope of this contract shall be performed by accredited actuaries or under the direct supervision of a qualified actuary; therefore, the firm must be able to provide an approved actuary regularly engaged in the business of providing actuarial services and who has at least five (5) years experience.

Provide a matrix, listing the name(s), title(s) firm(s) and responsibility on the project and the resume(s) of personnel who will be assigned to perform any services requested under this Agreement. Resumes shall include the firm the individual works for, their educational background, chronological history of employment, relevant licenses and certifications.

- E. Complete Attachment D [\(Cost Proposal Form\)](#) for performance of Tasks outlined in Attachment A.

The Cost Proposal Form shall include all fees for actuarial valuation services to the Authority as described in this RFP.

The Authority will pay fees quarterly in arrears.

If proposing the use of sub-consultant(s), provide the terms and conditions for their compensation (including their multipliers, and/or billing rates as appropriate), their Minority/Women-owned Business Enterprise (MBE/WBE) status and the technical qualifications of their key personnel to be assigned to the subject project.

- F. Technical Approach

This section shall discuss, in detail, the Proposer's approach to completing the required tasks (other than as-needed services) described in Attachment A.

- G. Management Approach

A detailed description of the proposed management approach to be taken for the performance of the required services.

- 1) Provide a summary of your risk oversight policy and objectives.
- 2) Prepare a staff organization chart for the project that identifies the responsibilities of each firm included on the team. Include a list of any intended sub-consultant(s) and their MBE/WBE status. Another organization chart shall be included that identifies

- the key individuals, their firms, work locations, and a clear management structure for sharing project responsibilities, work allocation, oversight, deliverable, costs and reporting responsibilities across different office locations of the Firm, if any, during performance of the services stipulated in Attachment A.
- 3) A description of how your proposed organizational structure will be responsive to the Authority's needs; your proposed approach and schedule for keeping the client apprised of the project status; and your proposed approach to ensuring the quality of the work product to be produced.
 - 4) Your attention is directed to Paragraph 19 of the Agreement in which the Authority has stated the MBE/WBE goals for participation in this project. Submit details on how you intend to meet these goals. A listing of certified MBE/WBE firms will be provided upon request.
- H. A complete list of your firm's affiliates and subsidiaries
- I. If the Proposer or any employee, agent or subcontractor of the Proposer may have an actual or appearance of a conflict of interest, or circumstances which may give rise to an appearance of impropriety, the Proposer shall include in its Proposal a statement indicating the nature of the conflict or circumstances which may give rise to an appearance of impropriety. The Authority reserves the right to disqualify the Proposer if, in its sole discretion, any interest disclosed from any source could create, or give the appearance of, a conflict of interest or appearance of impropriety. The Authority's determination regarding any question(s) of conflict of interest or appearance of impropriety shall be final.
- J. The Proposer is expected to agree with the form of Agreement and its terms and conditions attached hereto. The Proposer should therefore not make any changes in the Agreement nor restate any of its provisions in your Proposal or supporting material. ***However, if the Proposer has any specific exceptions, such exceptions should be set forth in a separate letter included with its response to this RFP.*** The Authority is under no obligation to entertain and/or accept any such specific exceptions. Failure to raise issues at the time of Proposal submission shall preclude the raising of such issues at a later time.
- K. Provide a copy of your most recent audited annual financial statements along with the most recent ADV Form filed with the Securities Exchange Commission (SEC). In addition, if any statements do not cover the most recent fiscal year, please indicate when such statements will be available.

IV. SELECTION PROCESS:

The qualifications based selection shall take into consideration the technical qualifications presented below in order of importance, as well as cost, as appropriate in the sole discretion of the Authority. After consideration of these factors the Authority may enter into negotiations with the firm (or firms) deemed best qualified to perform the required services. Such negotiations shall be conducted between the Authority's contact-person as identified herein, or the undersigned, and the individual contact-person identified by your firm.

- A. Firm's Qualifications and Experience
- B. Staff Qualifications and Experience
- C. Technical Approach
- D. Management Approach

V. ORAL PRESENTATIONS:

After review of all Proposal submissions, an oral presentation to the selection committee and others, as appropriate, may be requested. It should be noted that firms selected to make presentations may be given short advance notice. Presentations would be limited to thirty (30) minutes, and include the material contained in your Proposal. The presentation would be followed by an approximately thirty (30)-minute question and answer session. Proposer's staff providing the presentation shall be led by the proposed Project Manager, who may be supported by no more than three (3) other senior staff members proposed to work on this project. Notification of presentation scheduling is made by email. Please provide the name and email address of the contact person for presentation scheduling as well as an alternate in the event that person is unavailable.

VI. ADDITIONAL INFORMATION:

Proposers are advised that additional vendor information, including, but not limited to forms, documents and other related information may be found on the Authority website at www.panynj.gov. Proposers are responsible for periodically checking the Authority website at <http://www.panynj.gov/business-opportunities/bid-proposal-advertisements.html> for RFP updates and addenda.

If your firm is selected for performance of the subject services, the Agreement you will be asked to sign, at that time, will include clauses entitled "Certification of No Investigation (Criminal Or Civil Anti-Trust), Indictment, Conviction, Debarment, Suspension, Disqualification and Disclosure Of Other Information" And "Non-Collusive Proposing, And Code Of Ethics Certification, Certification Of No Solicitation Based On Commission, Percentage, Brokerage, Contingent Or Other Fees" (see paragraphs 22-23 of the form of Agreement). By submitting a Proposal, the Firm shall be deemed to have made the certifications contained therein unless said Firm submits a statement with his Proposal explaining why any such certification(s) cannot be made. Such a submission shall be submitted in a separate envelope along with your Proposal, clearly marked "CERTIFICATION STATEMENT."

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

Following selection of a Firm, the Authority will forward two copies of the Agreement to the selected firm, which must sign and return both copies. This Agreement will be effectuated upon your receipt of one (1) copy of the Agreement executed by the Authority.

Should you have any questions, please contact Mr. David Gutiérrez, by email at david.gutierrez@panynj.gov. All such correspondence must have your name, title, company, mailing address, telephone number and state “**RFP 31884**” in the subject line. The Authority must receive all questions no later than 4:00 P.M., seven (7) calendar days before the RFP due date, as set forth §2(f) above. Neither Mr. Gutiérrez nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate.

Proposal preparation costs are not reimbursable by the Authority. The Authority shall have no obligation to a firm except under a duly authorized agreement executed by the Authority and no rights accrue to any Proposer except under a duly authorized agreement for performance of the specified services.

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

Sincerely yours,

Tim Volonakis
Assistant Director
Procurement Department

Attachments

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL ACTUARIAL VALUATION SERVICES OF OTHER POST EMPLOYMENT BENEFITS

I. BACKGROUND

The Port Authority of New York and New Jersey (the “Authority”) is a municipal corporate instrumentality and political subdivision of the States of New York and New Jersey, created and existing by virtue of the Compact of April 30, 1921, made by and between the two States, and thereafter consented to by the Congress of the United States. It is charged with providing transportation, terminal and other facilities of trade and commerce within the Port District. The Port District comprises an area of about 1,500 square miles in both States, centering about New York Harbor. The Port District includes the Cities of New York and Yonkers in New York State, and 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. The Authority manages and/or operates all of the region’s major commercial airports (Newark Liberty International, John F. Kennedy International, Teterboro, LaGuardia and Stewart International Airports), marine terminals in both New Jersey and New York (Port Newark and Elizabeth, Howland Hook and Brooklyn Piers); and its interstate tunnels and bridges (the Lincoln and Holland Tunnels; the George Washington, Bayonne, and Goethals Bridges; and the Outerbridge Crossing), which are vital “Gateways to the Nation.”

The Port Authority Trans-Hudson Corporation (PATH) is a related entity of the Authority. PATH is a heavy rail rapid transit system, operating 24 hours a day, seven days a week, and serves as a critical link in the New York – New Jersey transportation network. The New York-New Jersey Metropolitan region ranks as the most mass transit-dependent region in the United States. PATH also serves as a catalyst for regional economic development due to the location of its thirteen stations and terminals within the high-density urban commercial and residential cores of Newark, Jersey City, Hoboken and Manhattan.

The Authority and PATH (herein referred to collectively as “the Authority”) provide certain group health care, prescription, dental, vision and term life insurance benefits for active and retired employees of the Authority as well as for their eligible dependents and survivors of active and retired employees (hereinafter referred to collectively as “participants”) commonly referred to as “other post-employment benefits” or OPEB. Contributions toward the costs of some of these benefits are required of certain participants. These contributions generally range from 0.75% to 100% of the Authority’s cost of the benefit and depend on a number of factors, including status of the participant (active employee, retiree or dependent), type of benefit, hire date, years of service, and retirement date. Benefits are provided through insurance companies whose premiums are based on the benefits paid during the year, or through plans under which benefits are paid directly by the Authority.

Approximately 68% of the Authority’s workforce is represented by 24 union groups (13 for Port Authority staff and 11 for PATH staff).

A majority (approximately 99%) of the employees/retirees receiving medical benefits are provided through the United Healthcare Choice Plus Plan. The Major Medical Maximum under the Choice Plus Plan for active employees and retirees is unlimited. Medical benefits

for the remaining employees/retirees are provided through various Health Maintenance Organizations (HMO) or a traditional indemnity plan.

There are five dental plans – three indemnity, a schedule of allowances and a Dental Maintenance Organization (DMO) - with 92.4% of employees/retirees receiving benefits under the traditional indemnity plans with slight variations.

Group Term Life Insurance (GLI) is provided to all active employees based on a multiple of salary and hire date. Group Term Life Insurance is also provided to retirees with varying levels of coverage based on a multiple of salary, date of birth, hire date, retirement date and, where applicable, union agreement. However, a segment of the retiree population exists where the level of coverage is based on a formula including years of service and salary. GLI coverage terminates for certain retirees when they reach the age of 65, at which time they receive life insurance coverage through an Insurance Continuation Plan, which provides for a flat amount of insurance.

Effective for the year ended December 31, 2006, the Authority fully implemented Governmental Accounting Standards Board (GASB) Statement No. 43, *Financial Reporting for Post-employment Benefit Plans Other Than Pensions*, and GASB Statement No. 45, *Accounting and Financial Reporting by Employers for Post-employment Benefits Other than Pensions*. In accordance with these statements, in December 2006 the Authority, established an employee benefits trust, which will provide funding for OPEB.

In addition, in order to make pension benefits for PATH employees not covered by collective bargaining agreements (sometimes referred to as PATH Exempt Employees) generally comparable to those available to Port Authority employees, a non-contributory, single employer, defined benefit governmental pension plan administered by the Port Authority has been established.

II. SCOPE OF WORK

The services of the Consultant shall generally consist of performing an actuarial valuation of OPEB for the Authority on an annual basis for each of the years 2013, 2014 and 2015. Services include but are not limited to the actuarial calculation of the OPEB liability and annual expense for employee/retiree plans including medical, prescription, dental, vision and life insurance. The OPEB actuarial valuation is to be conducted in accordance with applicable accounting standards, specifically GASB Statements No. 43 and No. 45. In addition, the Consultant shall perform an actuarial valuation of the PATH Exempt Employees Supplemental Pension Plan in accordance with GASB 50. The Consultant shall provide draft and final written reports documenting valuation methodologies, assumptions and results, and incorporating Authority comments as directed, for both the OPEB and PATH Exempt Employees Supplemental Pension Plan valuations.

III. DESCRIPTION OF CONSULTANT'S TASKS

Tasks to be performed by the Consultant shall include but are not limited to the following:

TASK A. WORK PLAN

1. Prepare a work plan for the performance of all required tasks hereunder. The work plan shall include the proposed methodology (e.g. entry age, attained age, projected unit credit, etc.); and the actuarial valuation assumptions (e.g. discount rate, health care trend rates, etc.) to be followed by the Consultant; and shall provide for the completion of the

Consultant's annual services no later than July 31st of each year.

2. Submit the work plan in draft form to the Authority for review and comments.
3. Incorporate Authority's comments and resubmit as final within fourteen (14) calendar days of receipt of the Authority's comments. Upon approval of the work plan by the Authority, proceed with performance of the following tasks.

TASK B. ACTUARIAL CALCULATIONS

Perform actuarial calculations for the Authority's OPEB plans based on the following information to be furnished by the Authority:

- Actual expense data
- Participant contributions
- Claim information
- Employee/retiree census data
- Employee Benefits Trust information
- Any other information considered pertinent to the valuation, as directed by the Authority

The actuarial calculations shall encompass all Authority postretirement benefit plans, which include medical, prescription, dental, vision, life insurance, and PATH supplemental pension benefits and shall reflect relevant cost containment/saving initiatives undertaken. The calculations are to be conducted in accordance with applicable accounting standards, specifically GASB Statements No. 43, 45 and No. 50 (including required financial statement disclosures), and shall include but not be limited to:

- the present value of the projected cost of future benefits
- the actuarial accrued liability
- the unfunded actuarial accrued liability
- the annual required contribution
- the net OPEB obligation

TASK C. DRAFT AND FINAL REPORTS

1. Submit a draft comprehensive report for Authority review and comment. Draft reports shall include an executive summary, discussing assumptions, data utilized and results. The report should provide sufficient information to allow the Authority to address the reporting requirements of GASB Statements No. 43 and No. 45 in the Authority's Comprehensive Annual Financial Report.

The report shall include, but is not limited to the following:

- a. the liability and expense by benefit programs for both the Port Authority and PATH;
- b. cost on a per capita basis per employee/retiree;
- c. a description of the calculation and factors used and the derivation of the per capita cost, specifically, how it relates to the medical, prescription, dental and life insurance costs provided by the Authority including a discussion of changes from the prior valuation;
- d. a summary of benefit provisions; and

- e. a five year projection.
2. Within fourteen (14) days of receipt of the Authority's comments, incorporate Authority comments and resubmit the report as final.

TASK D. AS NEEDED TASKS

1. In collaboration with the Authority identify, evaluate and assess potential changes to benefits including but not limited to the Authority's participation as a Medicare Part D PDP.
2. Meet with Authority staff to discuss topics/subjects that affect the OPEB calculations on an as needed basis.
3. Forward presentation materials on subjects to facilitate discussions with Authority staff.
4. Provide support services such as, but not limited to, producing specific requested financial information, extraction of data and reports to the Authority's External Auditors and Internal Audit Staff and/or other consultants as directed by the Authority in the performance of financial, system, security and operational reviews.
5. Support requests related to audits of the service level agreement and administration tasks and functions covered by the contract, if applicable and as required.
6. Assist with the transition to a new service provider to minimize service interruption to the Port Authority at the end of this Agreement.

IV. LIABILITY INSURANCE AND WORKERS' COMPENSATION INSURANCE

A. Commercial Liability Insurance:

The Consultant shall take out and maintain at his own expense Commercial General Liability Insurance including but not limited to Premises-Operations, Completed Operations and Independent Contractor coverages in limits of not less than \$1,000,000 combined single limit per occurrence for Bodily Injury Liability and Property Damage Liability. And if vehicles are to be used to carry out the performance of this Agreement, then the Consultant shall also take out, maintain and pay the premiums on Automobile Liability Insurance covering all owned, non-owned and hired autos in not less than \$1,000,000 combined single limit per accident for bodily injury and property damage. In addition, the liability policies (other than Professional Liability) shall include the Authority and its wholly owned entities as additional insureds and shall be specifically endorsed with a provision that the policy may not be canceled, terminated or modified without thirty (30) days written advance notice to the Project Manager. Moreover, the Commercial General Liability policy shall not contain any provisions (other than a Professional Liability exclusion, if any) for exclusions from liability other than provisions or exclusions from liability forming part of the most up to date ISO form or its equivalent unendorsed Commercial General Liability Policy. The liability policy(ies) and certificate of insurance shall contain separation of insured condition (cross-liability) and severability of interests provisions so that coverage will respond as if separate policies were in force for each insured. Furthermore, the Consultant's insurance shall be primary with respect to the above additional insureds. Any insurance or self-insurance maintained by the above additional insureds shall not contribute to any loss or claim.

Further, the certificate of insurance and the liability policy(ies) shall be specifically endorsed that "*The insurance carrier(s) shall not, without obtaining the express advance permission*

from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.”

B. Workers' Compensation Insurance:

The Consultant shall take out and maintain Workers' Compensation Insurance in accordance with the requirements of law and Employer's Liability Insurance with limits of not less than \$1,000,000 each accident.

C. Professional Liability Insurance:

Not less than \$2,000,000 each occurrence, covering negligent acts, errors, mistakes, and omissions arising out of the work or services performed by Consultant, or any person employed by Consultant. All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on an occurrence form or may be written on a claims-made basis with a minimum of a three-year reporting/discovery period.

D. Compliance:

Prior to commencement of work under this Agreement, the Consultant shall deliver a certificate from its insurer evidencing policies of the above insurance stating the title of this Agreement, the Authority Agreement number, compliance with notice of cancellation provisions, and containing a separate express statement of compliance with each of the requirements above set forth to the Project Manager.

1) Upon request of the General Manager, Risk Management/Treasury, the Consultant shall furnish to the Authority a certified copy of each policy itself, including the provisions establishing premiums.

2) Renewal certificates of insurance or policies shall be delivered via e-mail to the Authority's Project Manager at least fifteen (15) days prior to the expiration date of each expiring policy. The General Manager, Risk Management must approve the renewal certificate(s) of insurance before work can resume. If at any time any of the certificates or policies shall become unsatisfactory to the Authority, the Consultant shall promptly obtain a new and satisfactory certificate and policy.

3) If at any time the above liability insurance should be canceled, terminated, or modified so that the insurance is not in effect as above required, then, if the General Manager shall so direct, the Consultant shall suspend performance of the Agreement. If the Agreement is so suspended, no extension of time shall be due on account thereof. If the Agreement is not suspended (whether or not because of omission of the General Manager to order suspension), then the Authority may, at its option, obtain insurance affording coverage equal to the above required, the cost of such insurance to be payable by the Consultant to the Authority.

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

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**REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT
PROFESSIONAL ACTUARIAL VALUATION SERVICES FOR OTHER POST
EMPLOYMENT TRUST (RFP 31884)**

ATTACHMENT B

AGREEMENT ON TERMS OF DISCUSSION

The Port Authority's receipt or discussion of any information (including information contained in any proposal, vendor qualification, 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. The foregoing applies to any information, whether or not given at the invitation of the Authority.

Notwithstanding the above, and without assuming any legal obligation, the Port Authority will employ reasonable efforts, subject to the provisions of the Port Authority Freedom of Information Code and Procedure (FOI Code) adopted by the Port Authority's Board of Commissioners on March 29, 2012, which may be found on the Port Authority website at: <http://www.panynj.gov/corporate-information/pdf/foi-code.pdf>, not to disclose to any competitor of the undersigned, information submitted which are trade secrets which, if disclosed, would cause injury to the competitive position of the enterprise, and which information is identified by the Proposer as proprietary, as more fully set forth in the FOI Code, which may be disclosed by the undersigned to the Port Authority as part of or in connection with the submission of a proposal.

(Company)

(Signature)

(Title)

(Date)

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

ATTACHMENT C

COMPANY PROFILE

**PERFORMANCE OF EXPERT PROFESSIONAL
ACTUARIAL VALUATION SERVICES FOR OTHER POST EMPLOYMENT
BENEFITS (RFP 31884)**

1. Company Name (print or type):

2. Business Address (to receive mail for this RFP):

3. Business Telephone Number: _____

4. Business Fax Number: _____

5. Firm website: _____

6. Federal Employer Identification Number (EIN): _____

7. Date (MM/DD/YYYY) Firm was Established: ____/____/____

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

9. Officer or Principal of Firm and Title:

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

11. Is your firm certified by the Authority as a Minority-owned, Woman-owned or Small Business Enterprise (M/W/SBE)? Yes No

If yes, please attach **Port Authority** certification as a part of this profile.

If your firm is an M/WBE not currently certified by the Authority, see the Authority's web site – <http://www.panynj.gov/business-opportunities/supplier-diversity.html>, to receive information and apply for certification.

P.A. Agreement #COM-13-***
January , 2013

NAME OF FIRM

Attention: **CONTACT**

**SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL ACTUARIAL
VALUATION SERVICES FOR OTHER POST-EMPLOYMENT
BENEFITS**

Dear CONTACT:

1. The Port Authority of New York and New Jersey (hereinafter, the "Authority") hereby offers to retain **NAME OF FIRM** (hereinafter, "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..

2. This Agreement shall be signed by you and the Authority's Director of Procurement. As used herein and hereafter, the "Director" means the Authority's Director, Comptroller Department, acting either personally or through his duly authorized representatives acting within the scope of the particular authority vested in him unless specifically stated to mean acting personally.

For the purpose of administering this Agreement, the Director has designated NAME, TITLE, Comptroller Department to act as his duly authorized representative. The Project Manager for this project is NAME, TITLE, who can be reached at (***) ***-****, or e-mail address *****@panynj.gov.

3. Your services shall be performed as expeditiously as possible and at the time or times required by the Director. Time is of the essence in the performance of all your services under this Agreement.

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

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

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

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

A. For work performed at the Consultant's offices, the Consultant shall 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 shall 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. No hour of services by an employee shall be compensable hereunder unless the employee is actually paid by you for such services at his/her usual salary rate. The hourly billing rate for each employee is the amount to be paid to you and is full compensation for all benefits, taxes, etc., paid by you. There shall be no change in the billing rates during the first year of the term of this Agreement and no additional compensation for overtime, weekend, or holiday work. Attached hereto is a schedule of names, titles and corresponding hourly billing rates. Clearly indicate if any of the employees, proposed by you to perform the requested services, are former Authority employees. Said schedule shall be the basis for determining compensation, subject to audit and shall be updated

by you in writing as required until your services under this Agreement are completed. The Authority reserves the right of approval of all personnel and billing rates for said personnel performing services under this Agreement. For compensation purposes under this Agreement, no such salary or amount shall exceed the salary or amount received by said personnel or rate customarily billed for a partner or principal as of the effective date of this Agreement unless the Director has been notified in advance, in writing, of the increased salary, rate or amount and approves the increase.

The Consultant shall verify that its employees 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 access to the Authority, federal Form I-9 (Employment Eligibility Verification) for each individual hired by the Consultant, performing services hereunder. This includes citizens and noncitizens.

When requesting salary or billing rate adjustments for one (1) 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 costs to the Consultant of providing the services under this Agreement that has given rise to the request for increased salary. For adjustments submitted after the effective date of this Agreement it is the intention of the Authority to 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 in a) accordance with the program of periodic merit and cost of living increases normally administered by it, b) are warranted by increased costs of providing services under this Agreement, c) are based upon increases in salaries and billing rates that are generally applicable to all of Consultant's clients and d) are in accordance with the Authority's salary rate increase policy for the current year for Authority employees possessing comparable skills and experience. If during the term of the Agreement, 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 shall in all cases be finally determined by the Director or his designee, in their sole and absolute discretion.

B. An amount equal to the premium payments for overtime work or night work or for performing hazardous duty, actually paid to partners, principals, project/program management or other professional and technical employees 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 and have been authorized in advance by the Director in writing. The Project Manager for the Authority shall have the right to authorize and approve premium payments up to a total amount of \$1,000 (one thousand dollars) per occasion. Payments above said total amount shall be subject to the prior written authorization of the Director. Such premium payments to supervisory employees, who do not receive such payments in the Consultant's normal business practice, shall not be given under this Agreement.

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

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

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

1) If the Consultant uses its own facilities to reproduce such documents, an amount computed in accordance with the billing rates the Consultant customarily charges for reproduction of such documents on 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 expenses do not include amounts 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, Telex and telegrams, or expendable office supplies. Unless otherwise indicated, required insurance is not a reimbursable expense.

When the Consultant uses his personal vehicle to provide services within the Port District the Consultant shall 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 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 shall be reimbursable hereunder when approved in advance in writing by the Director. The cost for all meals and lodging on approved overnight trips are limited to the amounts established by the GSA for that locality.

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

You shall obtain the Director's written approval prior to making expenditures for out-of-pocket expenses in excess of \$1,000 (one thousand dollars) 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 \$25 (twenty five dollars) with receipted bills and provide said receipts with the appropriate billing.

E. As used herein:

"Port District" is an area comprised of about 1,500 (one thousand five hundred) 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, and the cities of Newark, Jersey City, Bayonne, Hoboken and Elizabeth in the State of New Jersey, and over 200 (two hundred) other municipalities, including all or part of seventeen counties, in the two States.

"Salaries paid to employees" or words of similar import shall mean 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 rates referred to in subparagraph A above.

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

The Authority shall 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 one (1) year after completion of services to be performed under this Agreement.

9. 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. Each invoice shall bear your taxpayer number and the purchase order number provided by the Director. Upon receipt of the foregoing, the Director will estimate and certify to the Authority the approximate amount of compensation earned by you up to that time. As an aid to you the Authority shall, within fifteen (15) days after receipt of such certification by the Director, advance to you by check the sum certified minus all prior payments to you for your account.

10. The Authority may at any time for cause terminate this Agreement as to any services not yet rendered, and may terminate this Agreement in whole or in part without cause upon three (3) days notice to you. You shall have no right of termination as to any services under this Agreement without just cause. Termination by either party shall be by certified letter addressed to the other at its address hereinbefore set forth. 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 shall pay you as the full compensation to which you shall be entitled in connection with this Agreement the amounts computed as above set forth for services completed to the satisfaction of the Director through the date of termination, minus all prior payments to you.

11. You shall not issue or permit to be issued any press release, advertisement, or literature of any kind, which refers to the Authority or the services performed in connection with this Agreement, unless you first obtain the written approval of the Director. Such approval may be withheld, if for any reason the Director believes that the publication of such information would be harmful to the public interest or is in any way undesirable.

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

13. Any services performed for the benefit of the Authority at any time by you or on your behalf, even though 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.

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

15. Originals of 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 shall have the right to use or permit the use of them and any ideas or methods represented by them for any purpose and at any time without other compensation 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 of 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.

16. 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, his officers, agents, employees, or subconsultants, the Authority shall 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.

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

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

19. The Authority has a long-standing practice of encouraging Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) to seek business opportunities with it, either directly or as subconsultants or subcontractors. "Minority-owned business" or "MBE" means a business entity which is at least 51 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 51 percent 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" or "WBE" means a business which is at least 51 percent (51%) owned by one (1) or more women; or, in the case of a publicly held corporation, 51 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. "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 persons of Puerto Rican, Mexican, Dominican, Cuban, Central or South American culture or 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.

The Authority has set a goal of 12 percent (12%) participation by qualified and certified MBEs and 5 percent to qualified and certified WBEs on technical service projects.

To be "certified" a firm must be certified by the Authority's Office of Business Diversity and Civil Rights.

In order to facilitate the meeting of this goal, the Consultant shall use every good-faith effort to utilize subconsultants who are certified MBEs or WBEs to the maximum extent feasible.

The Authority has a list of certified MBE/WBE service firms which is available to you at <http://www.panynj.gov/business-opportunities/supplier-diversity.html>. The Consultant will be required to submit to the Authority's Office of Business Diversity and Civil Rights for certification the names of MBE/WBE firms he proposes to use who are not on the list of certified MBE/WBE firms.

20. 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 that declines to abide by Authority security procedures and protocols, any person with a criminal record with respect to

certain crimes, or who may otherwise poses 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 may 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:

- Consultant/Subconsultant identity checks and background screening

The Consultant may be required to have its staff, and any subconsultant's staff, 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 subconsultant may also be required to use an organization designated by the Authority to perform the background checks.

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 (1) having an official photograph) to verify staff's name and residence; screening 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.

As of January 29, 2007, 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 the Transportation Worker Identification Credential for personnel performing in secure areas at Maritime facilities). Information about S.W.A.C., instructions, corporate enrollment, online applications, and location of processing centers is located at <http://www.secureworker.com>, or S.W.A.C. can be contacted directly at (877) 522-7922 for more information and the latest pricing. If approved by the Project Manager, the cost for said background checks for staff that pass and are granted a credential shall be reimbursable to the Consultant (and its subconsultants) as an out-of-pocket expense as provided herein. 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 site or facility (including rental spaces) without a facility-specific photo identification credential approved by the Authority. If the Authority requires facility-specific identification credential 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 shall be billed for the cost of the replacement identification credential. Staff shall

display Identification badges in a conspicuous and clearly visible manner, when entering, working, or leaving an Authority construction site or facility.

Staff may be required to produce not less than two forms of valid/current government issued identification having an official photograph and an original, non-laminated social security card for identify and SSN verification.

- 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 shall 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 the 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 work, the Consultant shall request a description from the Project Manager of the Secure Areas, which will be in effect on the commencement date. 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 Contract.

- 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 consultant security guards. However, this provision shall not relieve the Consultant of its responsibility to secure its equipment and work and that of its subconsultant’s and service suppliers at the Authority construction site or facility (including rental spaces). In addition, the Consultant, subconsultant, or service provider is not permitted to take photographs, digital images, electronic copying and/or electronic transmission or video recordings or make sketches on any other medium at the Authority construction sites or facilities (including rental spaces), except when necessary to perform the Work under this Agreement, without prior written permission from the Authority. Upon request, any photograph, digital images, video recording, or sketches made of the Authority construction site 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

The Agreement may require access to Authority information considered Confidential Information (“CI”) as defined in the Port Authority Information Security Handbook (“Handbook”), dated October, 2008, corrected as of February, 2009, 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 CI. 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 upon request or at: <http://www.panynj.gov/business-opportunities/pdf/Corporate-Information-Security-Handbook.pdf>

- Audits for Compliance with Security Requirements

The Authority may conduct random or scheduled examinations of business practices under this section and the Handbook in order to assess the extent of compliance with security requirements, Confidential Information 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.

21. The Consultant assumes the following distinct and several risks to the extent arising from the negligent or willful intentional acts or omissions of the Consultant or its subconsultants 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 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 or 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 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 or the Authority for the payment of workers' compensation, whether such claims are made and whether such injuries, damage and 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 it in the defense, settlement or satisfaction thereof, including expenses of attorneys. If so directed, 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 jurisdiction of the tribunal, immunity of the Authority, governmental nature of the Authority or the provisions of any statutes respecting suits against the Authority, such defense to be at the Consultant's cost.

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 his 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 he is 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 he 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 he would assume or the claims for which he 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.

22. 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 agreement for failure to meet standards related to the integrity of the Consultant;
- C. had an agreement terminated by any governmental agency for breach of agreement or for any cause based in whole or in part on an indictment or conviction;
- D. ever used a name, trade name or abbreviated name, or an Employer Identification Number different from those inserted in the Proposal;
- E. had any business or professional license suspended or revoked or, within the five years prior to proposal opening, had any sanction imposed in excess of \$50,000 (fifty thousand dollars) 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;
- F. had any sanction imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, proposal rigging, embezzlement, misrepresentation or anti-trust regardless of the dollar amount of the sanctions or the date of their imposition; and
- G. 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.

23. 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 any offers or agreements or taken any other action with respect to any Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics dated April 11, 1996 (a copy of which is available upon request to the Authority) nor does this organization have any knowledge of any act on the part of an Authority employee or former Authority employee relating either directly or indirectly to this organization which constitutes a breach of the ethical standards set forth in said Code;

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 foregoing certifications, shall be deemed to be made by the Consultant as follows:

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

director, and officer of the Consultant, as well as, to the best of the certifier's knowledge and belief, each stockholder of the Consultant with an ownership interest in excess of 10%;

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

Moreover, the foregoing certifications, 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 foregoing certifications, 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 "23G.", 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 Director of the Procurement Department of the Authority). Such disclosure is to be updated, as necessary, up to the time of award of this Agreement. As a result of such disclosure, the Authority shall 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-responsibility.

Notwithstanding that the Consultant may be able to make the foregoing certifications at the time the proposal is submitted, the Consultant shall immediately notify the Authority in writing during the period of irrevocability of proposals on this Agreement or any extension of such period of any change of circumstances which might under this clause make it unable to make the foregoing certifications 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 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, Consultants are 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 a Consultant, and that

in each instance the Authority will evaluate the reasons therefor provided by the Consultant. Furthermore, the Consultant selected for performance of the subject services shall immediately notify the Authority in writing, at any time during the term of the Agreement, of any change of circumstances which might under this clause make it unable to make the foregoing certifications, or might require disclosure.

Under certain circumstances the Consultant may be required as a condition of this Agreement award 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 shall 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.

24. CONSULTANT ELIGIBILITY FOR AWARD OF AGREEMENTS - DETERMINATION BY AN AGENCY OF THE STATE OF NEW YORK OR 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 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 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.

25. NO GIFTS OR GRATUITIES

During the term of this Agreement, the Consultant shall not offer, give or agree to give anything of value either to an Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Authority, or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) 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 Authority of duties involving transactions with the Consultant on behalf of the Authority, whether or not such duties are related to this Agreement or any other Authority agreement or matter. Any such conduct shall be deemed a material breach of this Agreement.

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 the Agreement or any other Authority agreement), etc. which might tend to obligate the Authority employee to the Consultant, 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. Such term shall not include compensation contemplated by this Agreement or any other Authority agreement. Where used herein, the term "Port Authority" or "Authority" shall be deemed to include all subsidiaries of the Authority.

The Consultant shall insure that no gratuities of any kind or nature whatsoever shall be solicited or accepted by it and by its personnel for any reason whatsoever from the passengers, tenants, customers or other persons using the Facility and shall so instruct its personnel.

26. NON-DISCLOSURE/CONFIDENTIALITY, OFFERS OF EMPLOYMENT

During the term of this Agreement, the Consultant shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Authority). Without the express written approval of the Director, you shall keep confidential, and shall require your employees, your subconsultants, and your subconsultant's employees to keep confidential a) all information disclosed by the Authority or its consultants to you or b) developed by you or your subconsultants in the performance of services hereunder. Disclosure of any such information shall constitute a material breach of the Agreement.

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

27. 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 any other 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 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 Director in writing of such situation giving

the full details thereof. Unless the Consultant receives the specific written approval of the Director, the Consultant shall not take the contemplated action which might be viewed as or give the appearance of a conflict of interest. In the event the Director 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 Director to be no longer appropriate because of such preclusion, then the Director 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, which result, directly or indirectly, from the services provided by the Consultant hereunder.

28. DEFINITIONS

As used in sections 22 to 27 above, the following terms shall mean:

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

Agency or Governmental Agency - Any federal, state, city or other local agency, including departments, offices, public authorities and corporations, boards of education and higher education, public development corporations, local development corporations and others.

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

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

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

29. 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 his duly

authorized representative, provided, however, that termination in the manner hereinbefore expressly provided shall be effective as so provided.

30. 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.

31. 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.

Very truly yours,

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

Lillian D. Valenti
Director
Procurement Department

Date _____

ACCEPTED:

NAME OF FIRM

By: _____

Title: _____

Date: _____

INSTRUCTIONS

If the selected Consultant is not located in the States of New York or New Jersey, change the number of the last Paragraph of this Agreement from "31" to "32" and insert a new Paragraph "31" as follows:

31. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to conflict of laws principles.