

April 29, 2014

**SUBJECT: REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL AIRFIELD PLANNING SERVICES FOR NEWARK LIBERTY INTERNATIONAL AIRPORT RUNWAYS 4L-22R AND 4R-22L END-AROUND TAXIWAYS ON AN “AS-NEEDED” BASIS (RFP #37691)**

Dear Sir or Madam:

The Port Authority of New York and New Jersey (the “Authority”) is seeking Proposals in response to the subject Request for Proposals (RFP) for performance of expert professional Airfield Planning Services for Newark Liberty International Airport Runways 4L-22R and 4R-22L End-Around Taxiways on an “as-needed” basis during 2014-2017.

The scope of services to be performed by you is set forth in Attachment A to the Authority’s standard agreement (the “Agreement”) included herewith. You should carefully review this Agreement as it is the form of agreement that the Authority intends that you sign in the event of acceptance of your Proposal and it forms the basis for the submission of Proposals.

**I. PROPOSER REQUIREMENTS:**

The Authority will consider only those firms who are able to meet and document each of the following minimum qualification requirements:

- A. Firm qualifications and demonstrated experience in the successful completion of:
  - 1. performing within the last 10 years as prime consultant for a planning and/or engineering project related to the engineering, design, and/or construction of an airfield project involving impacts to the airspace, runway and taxiway systems at a large hub airport and with construction costs valued at a minimum of \$20 million USD;
  - 2. performing within the last 5 years as prime consultant for a planning study involving impacts to airspace, runway and taxiway systems and valued at a minimum of \$0.5 million USD.
- B. Staff qualifications and experience
  - 1. Principal assigned must have a minimum of 20 years experience in airfield and airfield facility planning, design, and/or construction.
  - 2. Project Manager must have a minimum of 10 years experience in airspace/airfield and facility project planning and/or construction .

**II. PROPOSAL FORMAT REQUIREMENTS:**

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

- A. To be acceptable, the Proposal shall be no more than 80 pages single-sided or 40 pages double-sided, using 12 point or greater font size. The page limit pertains only to Letters G, H, and I in Section III below. Each resume shall be two (2) pages maximum, single-sided or one (1) page, double-sided, using 12 point or greater font size. The Proposal pages shall be numbered and bound, with “Your Firm Name,” and **RFP Number 37691** 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.
- C. All proposals must be delivered in sealed envelopes and/or packages. Address Proposal to: The Port Authority of New York and New Jersey, 2 Montgomery Street, Jersey City, NJ 07302, Attention: RFP Custodian. You are requested to submit one (1) reproducible original and five (5) copies, along with six (6) copies on USB flash drives, of your Proposal for review. Notwithstanding retention of the flash drive, in case of conflict, the reproducible original of the proposals and the written hard copy Agreement, if awarded, shall take precedence over material on the flash drive.
- D. In each submission to the Authority, including any return address label, information on the flash drive 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. Your Proposal must be delivered in sufficient time so that the Authority receives it **no later than 2:00 p.m. on May 23, 2014**. The outermost cover of your submittal must include the RFP Number and the RFP title as indicated in “Subject” above. The Authority assumes no responsibility for delays caused by any delivery services.
- F. 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, provide the following information:

- A. In the front of your Proposal, a copy of Attachment B (Agreement on Terms of Discussion) signed by an officer of your company.
- B. Complete a copy of Attachment C (Company Profile).
- C. Demonstrate your compliance with the prequalification requirements listed in “Proposer Requirements” as noted in Section I. above.
- D. The “multiplier” referred to in the first line of subparagraph 8.A of the accompanying standard agreement, including a breakdown of said multiplier, indicating all of its components (e.g., vacation, holiday, sick pay, workers’ compensation, office rent, insurance, profit). The name(s), title(s) and hourly rate(s), for engineering and technical personnel who will be assigned to perform any services requested. Indicate billing rates for partners or principals and actual hourly rates for all other billable employees.

Compensation for premium pay (i.e. holidays, shift differentials, regular days, weekends and night work or union required payments) must be included.

If proposing the use of subconsultant(s), include the terms and conditions for their compensation (including their multiplier, and/or billing rates as appropriate) and their Minority-Owned Business and/or Women-Owned Business Enterprise (M/WBE) status.

- E. The name(s), title(s) and hourly rate(s) for architectural/engineering and technical personnel who will be assigned to perform any services requested. Indicate hourly billing rates for partners or principals and actual hourly pay rates for all other billable employees. Indicate your company policy for compensation for premium pay (i.e. holidays, shift differentials, regular days, weekends and night work or union required payments must be included).
- F. Qualifications and Experience of Staff
  - 1. Prepare an organization chart for this project that identifies the key individuals, their firm, function, task responsibility and reporting relationships.
  - 2. Include a profile of the persons identified in the organization chart that describes how their experience and technical abilities will assist in the successful completion of the proposed project. Attach a detailed resume for each individual that includes his or her educational background, chronological history of employment, and any relevant licenses and/or certifications. The resumes should clearly identify the years of experience in the field related to the tasks for which the individual will be responsible.
  - 3. List the name(s), title(s) and resumes of personnel who will be assigned to perform any services requested. Identify subconsultants, if any, and indicate their experience and qualifications. Job titles shall include but are not limited to the following:
    - a) Project Manager
    - b) Lead Airport Planner
    - c) Lead Parking Planner
    - d) Lead Design Engineer
    - e) Lead Environmentalist
    - f) Lead Simulation Modeler
  - 4. For all titles listed, provide a profile to demonstrate that the individual has the needed experience to complete the services outlined in Attachment A. Identify the main projects the individual has managed in the past year. If the individual is currently managing other work, clearly state how he or she intends to also work on this project. (Include percentage of time to be dedicated to this project as well as others.)
  - 5. Other Key Personnel Experience:

Detail the experience of key individuals to be responsible for the successful completion of the proposed project. Titles of individuals shall include but are not limited to the following:

    - a) Financial Specialist

- b) Airport Engineer
- G. Specific relevant experience of your firm. For all projects referenced, include the name of the company, a contact person and current telephone number for verification purposes.
- H. A detailed description of the proposed technical approach to be taken for the performance of the required services set forth in Attachment A. Factors addressed in your technical approach shall include, but are not limited to, your proposed methodology and strategy for performing the services in Attachment A, (including a schedule for performance of the tasks stipulated therein), as well as any specific software or other technology you may employ in the performance of said services. In addition, although the baseline model to be provided by the Authority is in Total Airspace and Airport Modeler (TAAM) format, TAAM is not required in this project. the Consultant shall clearly identify the modeling tools anticipated to be used.
- I. The Proposer's proposed management approach to performance of the contemplated services. Factors addressed in your management approach shall include, but are not limited to: a) your proposed organizational structure to be responsive to the Authority's needs; b) your proposed approach and schedule for keeping the Authority apprised of the project status and to maintain project schedule compliance; and c) your proposed approach to ensuring the quality of the services to be provided.
- J. A complete list of your firm's affiliates.
- K. If the Proposer or any employee, agent or subcontractor of the Proposer may have, or may give the appearance of, a possible conflict of interest, the Proposer shall include in its proposal a statement indicating the nature of the conflict. The Authority reserves the right to disqualify the Proposer if, in the Authority's sole discretion, any interest disclosed from any source could create, or give the appearance of, a conflict of interest. The Authority's determination regarding any question(s) of conflict of interest shall be final.
- L. The Proposer is expected to agree with the standard agreement and its terms and conditions. You should therefore not make any changes in this standard 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 or accept any such specific exceptions. Exceptions raised at a time subsequent to proposal submission will not be accepted. The scope of the tasks to be performed by you are set forth in Attachment A to the Authority's standard agreement.

#### **IV. SELECTION PROCESS:**

The qualifications based selection shall take into consideration the technical qualifications presented below in order of importance, and subsequently cost, as appropriate.

- A. Qualifications and experience of the staff;
- B. Qualifications and experience of the firm;
- C. Technical approach; and
- D. Management approach for the performance of the contemplated services.

After consideration of these factors, the Authority may enter into negotiations with the firm (or firms) deemed best qualified in terms of the foregoing factors to perform the required services.

**IV. 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 shall be limited to 30 minutes, and shall include the material contained in your Proposal. Presentations shall be followed by an approximately 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 two (2) other senior staff members proposed to work on this project. Notification of presentation scheduling will be made by email. Please provide the name and email address of the person who should be contacted for presentation scheduling as well as an alternate in the event that person is unavailable.

**V. ADDITIONAL INFORMATION:**

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

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

Your attention is directed to Paragraph 19 of the Authority's Standard Agreement in which the Authority has stated the goals for Minority Business Enterprise participation. A listing of certified MBE/WBE firms is available at <http://www.panynj.gov/business-opportunities/sd-mini-profile.html>.

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

All questions, if any, must be received at least five (5) working days prior to the proposal due date to Ms. Tiernan at [ttiernan@panynj.gov](mailto:ttiernan@panynj.gov). Neither Ms. Tiernan nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or to

give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate. For RFP updates and Addenda, if any, Proposers are encouraged to monitor the Authority website at <http://www.panynj.gov/business-opportunities/bid-proposal-advertisements.html?tabnum=6> as required to ensure that they are aware of such changes.

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 <http://www.panynj.gov/business-opportunities/become-vendor.html>.

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

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

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

Sincerely,

Tracy Tiernan  
Solicitation Manager  
Procurement Department

Attachments

## ATTACHMENT A

### PERFORMANCE OF EXPERT PROFESSIONAL AIRFIELD PLANNING SERVICES FOR NEWARK LIBERTY INTERNATIONAL AIRPORT RUNWAYS 4L-22R AND 4R- 22L END-AROUND TAXIWAYS ON AN “AS NEEDED” BASIS

#### I. BACKGROUND

The Port Authority of New York and New Jersey (“Authority”) is an agency 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.”

As a part of its continuous efforts to improve safety and efficiency at Newark Liberty International Airport (EWR), the Authority seeks to assess the viability of End-Around Taxiways (EATs) at EWR. EATs will enhance capacity and safety by eliminating the need for aircraft arriving on the outboard runway (4R-22L) to cross the inner departure runway (4L-22R) in order to reach the terminals. When arrivals cross the departure runway, the departure stream must be interrupted, leading to significant departure delays as well as delays to arriving aircraft, which at peak times must be “stacked” on multiple taxiways waiting to cross the inner runway.

According to Federal Aviation Administration (FAA), as presented in their Engineering Brief No. 75: *Incorporation of Runway Incursion Prevention into Taxiway and Apron Design* the single greatest risk of runway incursions is associated with taxiing aircraft crossing an active runway. Currently approximately 620 runway crossings occur at EWR each day. A well-designed EAT would drastically reduce these runway crossings, and would reduce pilot-controller communications, increasing the level of safety in both situations. EATs have been implemented at other large-hub airports across the United States, and have proven to be valuable in reducing delays, promoting the efficiency of airport operations, and increasing safety, by significantly reducing runway crossings and pilot-controller communications.

The Authority analyzed a number of different concepts to determine the feasibility of EATs at EWR. The concepts represented many different ways to achieve EATs, with minimal constraints. After a high level screening of concepts, the Authority performed preliminary modeling and an impact evaluation of the remaining alternatives to determine the benefits gained from their implementation.

The implementation of EATs at EWR would affect automobile parking currently located off the ends of Runway 4L-22R. In addition, other airport projects would also have an impact on automobile parking at EWR.

## **II. SCOPE OF WORK**

The services of the Consultant shall generally consist of 1) assessing EAT alternatives developed by the Authority, developing new alternatives as appropriate and documenting its findings and recommendations (giving its reasons therefor); and 2) performing a comprehensive automobile parking analysis for the entire airport, including, but not limited to, assessing the impact of the EATs (post construction) and other relevant airport projects on airport automobile parking. Upon completion of the initial EAT Alternatives Assessment, the Consultant shall employ stakeholder and Authority-defined criteria to finalize the list of alternatives to be carried forward. Such alternatives will be subject to a detailed second-level evaluation and analysis process to include, but not be limited to, simulation modeling, benefit-cost ratios, and in-depth impact assessment(s). Upon final selection of a *recommended alternative*, the Consultant shall prepare detailed functional plan(s) as required.

After construction of the first EAT, the Consultant shall implement a two-year utilization tracking and performance evaluation of the EAT, as required to determine whether the anticipated benefit(s) were realized. The Consultant shall be responsible for all involved disciplines, except as otherwise noted herein.

The overall schedule for completion of the Consultant's services hereunder is approximately thirty-six (36) months, with the Automobile Parking Impact Analysis, TASK J, to be completed within the initial six (6) months. All preliminary reports, including the selection of a recommended alternative, must be completed within no later than eighteen (18) months after the commencement of services hereunder. The Authority will establish additional intermediate project milestones as required.

## **III. DESCRIPTION OF THE CONSULTANT'S TASKS**

For each of the following tasks, or parts thereof as determined by the Authority, or as otherwise indicated and as appropriate, prepare and present a Draft Report documenting your findings, and recommendations. Incorporate Authority changes as required, and submit the revised report as part of the Final report required under TASK M, below. Specific tasks to be performed by the Consultant may include but are not limited to:

### **TASK A. PROJECT COORDINATION, MEETINGS AND DOCUMENTATION**

1. **Project Schedule**: Submit a draft detailed project schedule ten (10) days after notice to proceed. The schedule and bar chart critical path shall include but not be limited to project milestones and interdependencies; tasks and sub-tasks; allowance for review of all submittals by the Authority, and incorporation of Authority comments. Incorporate Authority comments as required and resubmit the schedule within three (3) days of receipt of Authority's comments. The schedule shall be updated on a monthly basis or as directed by the Authority. Updates shall coincide with Monthly Progress Reports.

2. Project Coordination: The Authority will coordinate all efforts between the Consultant, the FAA, and other outside parties and will serve as a liaison for this effort. The Consultant shall provide one point of contact between its firm and the Authority. The Consultant's Project Manager shall communicate regularly with the Authority's Project Manager on project status, technical matters, budget, and other issues affecting the completion of these tasks. As required, and at the direction of the Authority, the Consultant shall function as project spokesperson at meetings to ensure consistency of information being disseminated. All reports and/or other correspondence to be disseminated will be subject to the prior approval of the Authority.

This project will require extensive, regular communication with a large range of stakeholders throughout the process.

Stakeholders including but not limited to Authority Planning, Engineering and Traffic, FAA, airlines, key tenants, and other federal, state, and local agencies will validate all applicable findings. Validation of findings will occur throughout the project rather than after the selection of the preferred alternative in order to keep all involved parties informed of the process and to ensure that all stakeholders are informed of the recommendations and the reasons therefor. The Consultant shall facilitate this process by coordinating the issuance of regular updates, as prepared by the Consultant and approved by the Authority, to all involved parties.

As practical, multi-stakeholder groups shall be established and existing stakeholder groupings shall be utilized. The Consultant shall be prepared to independently identify stakeholders, prepare materials for stakeholder meetings and outreach as requested.

3. Meetings: Attend, participate in, and prepare minutes for project review, coordination, FAA, and stakeholder meetings as required. The Authority anticipates quarterly project progress meetings and a Draft Final Report Power Point presentation to be made to external partners. The Consultant shall determine the actual number of meetings that are necessary to perform the above-mentioned tasks, subject to the prior approval of the Authority. Submit a draft of the meeting minutes to the Authority's Project Manager within five (5) workdays for review. Incorporate Authority comments and submit as Final.
4. Maintain a project record that shall include, but is not limited to, copies of all submissions, meeting notes, and key correspondence. Compile technical data and submit in the form of drawings and reports to the Authority upon completion of services.
5. Ensure that the FAA is given ample time and opportunity to review the study as it progresses, and is given a mechanism for providing comment throughout. After the submission of the draft final report and documentation to FAA for review, assist the Authority in responding to FAA comments, questions and requests for additional information, and incorporate any approved revisions into the finalized document.

#### TASK B. CURRENT AIRFIELD AND AIRSPACE CHARACTERISTICS

1. Identify and inventory existing airfield/airspace operations and traffic patterns:
  - a. Review and describe airside and airspace physical and operational characteristics for EWR.

- b. Analyze runway/taxiway utilization configurations and airfield ground flow traffic patterns as provided by the Authority and/or researched by the Consultant.

The Consultant shall utilize Authority data services such as eCATER, Aerobahn, AirScene, FAA operations and performance metrics applications, field observations and site visits as required to best characterize airfield and airspace conditions.

2. Identify and quantify airfield/airspace configuration deficiencies under all traffic flows:

Using the information compiled above, perform a comprehensive review as required to identify areas of airfield/airspace not being utilized efficiently, or negatively impacting EWR's operation. Particular focus should be given to arriving and departing aircraft ground flow impediments including but not limited to those that arise due to choke points, queuing space, and staging areas. Quantify identified deficiencies in terms of their impacts on both existing and future operations.

#### TASK C. ESTABLISH DEMAND SCENARIOS FOR ALTERNATIVES

1. Using Authority provided forecasts; prepare a series of demand scenarios to be used for all alternatives. A flight schedule will be required for each scenario, although different scenarios may use the same flight schedule. Flight schedules, will also be used in the evaluation of auto parking alternatives and demand threshold analyses.
2. Analyze historical weather data and provide a summary of the annual conditions that require specific operational flows at the airport. This effort will be used to help determine the scenarios to be simulated and to annualize the results for the subsequent benefit cost analysis.
3. Submit all assumptions (including fleet mix, load factors, percent connections, slot use, regional demand, domestic-international split, and market timing) to be employed in performance of this task to the Authority for review. Incorporate Authority changes, as required, and upon approval develop and evaluate future demand scenarios for air passenger and employee parking at EWR, taking into account items including but not limited to: pricing, short and long-term parking distributions, mass transportation options, and terminal redevelopments leading to increased employment, and tenant use expansions

#### TASK D. END-AROUND TAXIWAY ALTERNATIVES DEVELOPMENT

1. Review and characterize EAT alternatives developed by the Authority for appropriateness in terms of such factors as anticipatable effectiveness, constructability, etc., and identify any additional alternatives not previously considered.
2. Upon approval by the Authority of Consultant proposed alternatives, develop said alternatives for review and further analysis, as appropriate.

#### TASK E. ANALYSIS, REFINEMENT AND EVALUATION OF ALTERNATIVES

1. Determine viability of the approved alternatives, including but not limited to performing:
  - a. A Ground Flow and Taxiway Network Analysis for each alternative. The analysis shall include ground flow diagrams and shall take into consideration arrival and departure queuing space, adverse weather events and other irregular operation (IROP)

scenarios. The Consultant shall show the effect of each alternative on the optimization of the ground flow network.

- b. A Runway Length Analysis to quantify the effect each alternative has on available takeoff and landing runway distances. If an alternative changes the runway distance, the Consultant shall determine the resulting effect on the airport operations while also taking into account impacts such as, but not limited to, aircraft operational requirements and range restrictions.
- c. An Obstruction Analysis/TERPS Study to analyze operations on the EAT alternative, as appropriate, and assess compliance with FAA regulations, including but not limited to Order 8260.3B *United States Standard for Terminal Instrument Procedures* (TERPS) surfaces, 14 CFR 121.189 *Airplanes: Turbine Engine Powered: Takeoff Limitations*, 14 CFR 77.C *Standards for Determining Obstructions to Air Navigation or Navigational Aids or Facilities*, as required to ensure that the implementation of an EAT will not adversely affect the approach surface. The Consultant shall also address the one-engine inoperative (62.5:1) surface, as well as perform a detailed analysis of the EWR fleet types and their performance characteristics with relation to the 62.5:1 surface. Selective obstruction surveys may be required with prior Authority approval.
- d. An Airspace Compatibility Analysis to evaluate select EAT concepts for compatibility with existing and planned airspace configurations. Assess the effect of an uninterrupted departure queue on multiple heading departures. Benefits shall be quantified to accurately detail an EAT's benefit to airspace efficiencies.
- e. Airport Design Standards Analysis of all applicable airport design standards as detailed in FAA AC 150 5300-13, *Airport Design*, to determine any non-standard conditions as they relate to the proposed alternatives. FAA guidance provided in the above referenced AC states that EATs must remain outside of the standard Runway Safety Area (RSA), which extends 1,000 feet along the centerline of the departure end of the runway. Analyze existing RSAs to ensure that they comply with the *Airport Design* AC and that they will remain standard after construction of the EATs. Verify that adequate room is available to accommodate EATs beyond the limits of the standard RSA and to satisfy other applicable airport design standards. Analyze any opportunity to remove Modification to Standards that the EAT will present.
- f. An Instrument Landing System (ILS) Critical Area Study to confirm that the proposed EATs remain entirely outside of these critical areas. If this is not feasible, evaluate alternative localizer/glide slope locations. In addition, address the location of the Approach Lighting System (ALS) beyond each runway end in reference to the proposed location(s) of the EAT. If alterations to any ALS are required, develop concepts for said alterations in accordance with FAA guidance on spacing of light stations. Identify any other Navigational Aid (i.e. supporting shed(s), generator(s), support building(s)) location issues, if any, and proceed as directed by the Authority.
- g. A Line of Sight Analysis to confirm that Air Traffic Controllers will have an unimpeded view of all aircraft operating on the EAT(s) and perform a site visit(s) to confirm your findings. Any site visit shall be coordinated with the Authority.

- h. A Visual Screen Placement Analysis: Visual screens enable pilots to better discern when an aircraft is crossing the active runway versus operating on the EAT. Identify the appropriate location for the visual screen, taking into consideration that the screen cannot be located within any RSA, taxiway obstacle free zone or ILS critical area, and must not penetrate the inner approach obstacle free zone, the approach light plane or other TERPS surfaces identified as being critical. Use the guidelines for Visual Screen size, construction and environmental performance, etc. as identified in AC 150/5300-13. Evaluate the viability of using existing fencing as a visual screen.
  - i. Prepare material to justify the reduced criteria alternatives that would require a waiver from the FAA. As appropriate, coordinate with the FAA and it's obstruction committee, for any material clarification (presentation, submission, etc.).
  - j. A Preliminary Impact Analysis for each alternative including, but not limited to, impacts to automotive parking and tenant facilities. Results shall be categorized and quantified to facilitate comparisons.
2. Develop and document a screening process to narrow down the list of alternatives, and include a list of stakeholders along with an approach to incorporating their involvement in the screening process. Submit to the Authority for approval and incorporate comments as directed.
  3. Upon approval by the Authority of the item "2." submittals, conduct an in-depth evaluation of each EAT alternative, identify those that meet the criteria, and those that do not, giving your reasons therefor. Applied criteria shall include, but not be limited to:
 

a. Increase of Capacity and Safety	d. Environmental Impacts
b. Feasibility and Costs	e. Tenant Impacts
c. Constructability	f. Off-Site Impacts

**TASK F. IDENTIFYING SCENARIOS FOR MODELING**

Perform a quantitative comparison of alternatives, rank the alternatives in order of potential benefit and impact, and recommend those alternatives that warrant further evaluation, giving your reasons therefor.

**TASK G. MODELING ANALYSIS**

1. Incorporate the results of the analysis performed in TASK B as well as interviews conducted with key stakeholders identified in TASK A to confirm and validate existing ground traffic patterns, airfield operating procedures, constraints and Total Airspace and Airport Modeler (TAAM) baseline model input assumptions. The Consultant will be provided with Aerobahn, eCATER, AirScene and other operational data that can be used to validate or calibrate the baseline model. If the Consultant deems recalibration of the baseline model necessary, present assumptions and methodologies to the Authority for approval. Upon approval, the Consultant shall then perform recalibration of the baseline model.
2. Establish, develop and validate simulation operational assumptions with key stakeholders for all of the alternatives carried forward. The Consultant shall perform modeling and analyses and shall quantify capacity enhancement and delay reduction benefits for

various demand scenarios and operations activities. The Consultant shall present the modeling and analyses results in terms of operational benefit, time and annual delay savings. Develop in a matrix format a summary of alternative delay reduction benefits for various demand scenarios..

#### TASK H. FINAL ALTERNATIVES EVALUATION

1. Prepare an evaluation criteria process diagram using stakeholder agreed-upon principles and criteria for evaluation, identifying comparative strengths and weaknesses. Identify the results of the analyses completed in the previous tasks in the diagram.
2. Recommend a preferred alternative giving your reasons therefor.
3. Submit the draft report, which shall include the process diagram and drawings in CAD format, to the Authority for review and comment. Incorporate Authority comments as directed and resubmit the draft as part of the Final Report required under TASK M.

#### TASK I. FUNCTIONAL/PHASING/IMPLEMENTATION PLAN DEVELOPMENT

Based upon the work performed in the forgoing tasks, for the approved alternative:

1. Develop functional plans for providing EATs beyond the ends of Runways 4L-22R and 4R-22L. Plans shall include all associated items (i.e. parking lot relocation, roadway relocation, NAVAID relocation, airside facility relocation, etc.) as noted above.
2. Prepare a construction phasing plan for the EATs that minimizes the impact on operations and on the New Jersey State Implementation Plan (SIP).
3. Develop a plan to estimate the total emissions resulting solely from the vehicles and equipment used to implement the recommended alternative and also from the results from the parking study in TASK J. This plan shall identify the steps required for submitting the estimate to the regulatory board of New Jersey.

#### TASK J. AUTOMOBILE PARKING IMPACT ANALYSIS

1. Perform a parking inventory survey to assist in the formulation of an accurate baseline of parking at EWR. The survey will be distributed to all major tenants and stakeholders who utilize auto parking at EWR. Provide a baseline analysis of all major auto-parking activities at EWR, to include but not be limited to passenger, employee, tenant, Authority, and rental car auto-parking.
2. Identify deficiencies in auto parking supply for existing and future demand scenarios and identify and quantify the impacts of implementing auto-parking alternatives that do not meet demand across all scenarios.
3. The implementation of an EAT poses significant impacts to areas off the ends of the runways. At EWR, a number of different uses lie in those areas, most notably parking lots for employees and passengers. Implementation of an EAT in the approach of Runway 4L/4R would necessitate the full or partial relocation of Employee Parking. Implementation of an EAT in the approach of Runway 22L/22R would require the full or partial relocation of Economy Term Parking.

Using overall future demand scenarios established in prior tasks and considering preliminary EAT impacts, identify what considerations need to be made regarding Parking Lots: P-1-4; the Terminal C Short Term Parking Garage; and the Short Term A, B, and C Surface Lots. Take into account any new parking facilities that will be constructed as part of the Terminal A redevelopment, as identified by the Authority. Additional consideration shall be given to the current and historical utilization data of the existing parking facilities.

4. Using the results of TASK C, make recommendations for parking lot capacity and the re-allocation/re-organization of existing and proposed parking facilities at EWR in order to increase the effective and efficient utilization of parking and revenues, while maintaining an acceptable level of customer service.
  - a. Identify alternate viable locations for parking within the airport boundary. If on-airport locations cannot be identified, identify and recommend off-airport locations, as appropriate. Identify the property owners of land to be acquired.
  - b. Explore the viability of relocating the Air Train Maintenance Facility to provide additional parking capacity closer to the terminal complex. The building, and associated tracks and utilities, would be relocated/reconstructed to a site suitable for providing service similar to what exists today. Incorporate the results of this analysis into the overall study itself. Detailed functional drawings and planning-level cost estimates will be required as a part of this task.
5. Include projected costs and scheduling to implement the parking alternatives. Costs should include but not be limited to items such as acquisition, replacement, access to proposed parking areas and operating costs for the transportation of passengers and employees to their respective terminals. The costs shall be in sufficient detail for effective comparison between each of the alternatives.
6. Prepare an evaluation criteria matrix, using stakeholder agreed-upon principles and criteria for evaluation, identifying comparative strengths and weaknesses of each alternative. This process shall not culminate in a recommended parking alternative, but shall address all options for all demand scenarios for future policy and planning decisions.
7. Prepare and submit a draft report, including evaluation matrix across all demand scenarios, to the Authority for review and comment. Incorporate Authority comments as directed and submit the report as part of the Final Report required under TASK M, below.

#### TASK K. IMPACT ASSESSMENT

Prepare analysis of the impact of the Authority approved alternatives if carried forward. All direct or indirect impacts identified by the Consultant shall be subject to the advance approval of the Authority. Requests for approval shall indicate the impact's significance.

1. Impacts to be analyzed include, but are not limited to:
  - a. Implementation of an EAT into the Runway 4L/4R approach would necessitate the relocation of the South Cargo Road (Earhart Drive) while construction of an EAT into the Runway 22L/22R approach would require the relocation of the Restricted

Service Road (RSR), currently located between the runway end and Parking Lot “P-6”. Perform a high-level analysis of the impacts of relocating these internal and external roadways.

- b. Analyze the direct and indirect impacts on tenants and their facilities.
2. Quantify the impacts identified internally and externally for each alternative carried forward, and incorporate TASK J impacts into this task.
3. For the impacts identified and quantified as a part of this task, prepare high-level plans for mitigation of these impacts. Mitigation plans shall define all steps required for implementation.
4. Prepare a draft report of the impacts identified and assessed as a part of this task, including proposed mitigation measures. Incorporate Authority comments as required, and include the revised document in the Final Report required in TASK M.

#### TASK L. BENEFIT COST ANALYSIS

Perform an FAA compliant Benefit-Cost Analysis (BCA) of each of the approved alternatives. Submit financial assumptions to the Authority for approval, and modify them as required, prior to preparing financial models. The BCA shall include:

1. total aircraft and passenger costs for a baseline case and the approved alternatives. Include quantifiable and secondary benefit descriptions in a comparison matrix for each scenario.
2. Project costs shall consider both construction and operation & maintenance (O&M) costs. Construction and O&M costs will be provided by the Authority. Calculate detailed project costs for each alternate. Based upon services performed in TASK J, estimate and include costs of replacing affected parking operations as part of the project cost.
3. A description of the BCA performed for each scenario. Present the findings with a Comparison Matrix for each scenario, including both quantifiable and secondary benefits, and Net Present Value of cost and benefits for each year of the financial model.

#### TASK M. FINAL REPORT

Prepare a comprehensive final report that incorporates all draft reports and information gathered, analyzed and processed during the study. The Final Report shall be submitted in draft form to the Authority for review. Incorporate Authority comments as required and submit/present ten (10) copies of the report as final.

Create for Authority use an executive summary report that succinctly narrates and summarizes the final report. This executive summary shall be presented in a user-friendly manner. This executive summary shall be submitted to the Authority for review and comment, with any revisions incorporated into the document before submitting as final. The Consultant shall prepare twenty (20) copies of the executive summary for Authority use.

A compatible electronic copy of the final report and executive summary, including all CAD files, shall be presented at the final report meeting along with one (1) reproducible original.

#### TASK N. EAT UTILIZATION TRACKING AND PERFORMANCE EVALUATION

After the construction of the first EAT is complete, implement a two-year utilization and performance evaluation of the EAT to confirm that the estimated benefit has been realized. This task shall include tracking and analyzing usage of the EAT and subsequently detailing the realized benefit. Data will come from the existing Aerobahn system at EWR and will be provided by the Authority.

#### **IV. INFORMATION AND MATERIALS PROVIDED BY THE AUTHORITY – MADE AVAILABLE ONLY TO SELECTED CONSULTANT – INCLUDE THIS IN THE RFP LETTER.**

The Authority will make available for the Consultant's information certain documents specified below. The documents were not prepared for the purpose of providing information for the Consultant upon the present work but were prepared for other purposes, and do not form a part of this Agreement. The Authority makes no representation or guarantee as to, and shall not be responsible for, their accuracy, completeness or pertinence, and, in addition, shall not be responsible for any conclusions to be drawn therefrom. They are made available to the Consultant merely for providing such information as is in the possession of the Authority, whether or not such information may be accurate, complete or pertinent, or of any value to the Consultant. All documents, as well as Authority standards, and Authority specifications will be made available to the Consultant by the Authority. Said documents are as follows:

- A. EWR Airport Layout Plan
- B. Port Authority Flight Operations Forecast Data
- C. Aerobahn Data
- D. eCATER Data
- E. AirScene Data
- F. FAA Modifications of Standards Information
- G. TAAM Baseline Model for EWR
- H. All EAT Concepts Developed by the Authority
- I. Parking Utilization and Inventory Information
- J. AirTrain EWR Inventory Information

#### **V. CONDITIONS AND PRECAUTIONS**

- A. Immediately inform the Authority of any unsafe condition discovered at any time during the course of this work.
- B. Vehicular traffic on all airport roadways shall always have priority over any of the Consultant's operations.

C. Work Areas

1. Limit inspection work to the areas necessary for the performance of such inspection and do not interfere with the operation of the Airport without first obtaining specific approval from the Authority.
2. During all periods of time when not performing operations at the work site, store all equipment in areas designated by the Authority and provide all security required for such equipment.
3. Do not permit any objects or pieces of equipment to lie unattended on sidewalks, roadways or structures at any time.

D. Work Hours

Perform work at the site between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday, unless otherwise directed by the Authority. In any case, no work shall be performed at the site on a legal holiday of either the State of New York or the State of New Jersey.

**VII.COMMERCIAL GENERAL LIABILITY INSURANCE AND WORKERS' COMPENSATION INSURANCE PROCURED BY THE CONSULTANT**

A. Commercial Liability Insurance:

1. 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 coverage in limits of not less than \$10,000,000 combined single limit per occurrence for Bodily Injury Liability and Property Damage Liability. In addition, if vehicles are to be used to carry out the performance of this contract, 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 \$10,000,000 combined single limit per accident for bodily injury and property damage. Any/all activities performed airside must, at all times, be performed while under escort as approved in advance, and in writing by the Project Manager. If at any time, the Consultant is directed to perform services airside in the absence of an approved escort, the Commercial General Liability Insurance and Automobile Liability Insurance provided by the Consultant must contain limits of not less than \$25,000,000 combined single limit per occurrence as provided in item 2) (a) below. In addition, the liability policies (other than Professional Liability) shall include the "Port Authority of NY & NJ and its wholly owned entities" as additional insured and shall contain a provision that the policies may not be canceled, terminated or modified without thirty (30) days written advance notice to the Project Manager as noted below. 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 cross-liability language providing severability of interests so that coverage will respond as if separate policies were in force for each insured. Furthermore, the Contractor's insurance shall be primary insurance as respects to the above additional insured(s), its representatives, officials, and employees. Any insurance or self-insurance maintained by the above additional insured(s) shall not contribute to any loss or claim. These

insurance requirements shall be in effect for the duration of the contract to include any warrantee/guarantee period.

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”*.

2. Additional Coverages: The Consultant shall have the policy endorsed when required by the Engineer for specific services hereunder and include the additional premium cost thereof as an out-of-pocket expense:

If the services of the Consultant, as directed by the Authority, require the performance of services airside, the Commercial General Liability and Automobile Liability coverage limits stipulated in subparagraph 1, above, shall be increased to an amount not less than \$25,000,000 per occurrence as provided herein.

B. 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. A waiver of subrogation in favor of the Authority and its wholly owned entities, as allowed by law, shall be included.

C. Professional Liability Insurance:

Not less than \$5 million each occurrence, covering negligent acts, errors, mistakes, and omissions arising out of the work or services performed by the Consultant, or any person employed by the 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 at the site, the Consultant shall deliver a certificate from its insurer evidencing policies of the above insurance stating the title of this Agreement, the P. A. Agreement number and containing a separate express statement of compliance with each of the requirements above set forth, via e-mail to the Project Manager.

1. Renewal certificates of insurance or policies shall be delivered to the Facility Contractor Administrator, Port Authority 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 on the facility. If at any time any of the certificates or policies shall become unsatisfactory to the Port Authority, the Contractor shall promptly obtain a new and satisfactory certificate and policy.

2. 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 Manager shall so direct, the Contractor shall suspend performance of the contract at the premises. If the contract is so suspended, no extension of time shall be due on account thereof. If the contract is not suspended (whether or not because of omission of the 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 Contractor to the Port Authority.

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

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 contract. 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.

\* \* \*

**ATTACHMENT B**

**PERFORMANCE OF EXPERT PROFESSIONAL AIRFIELD PLANNING SERVICES  
FOR NEWARK LIBERTY INTERNATIONAL AIRPORT RUNWAYS 4L-22R AND 4R-  
22L END-AROUND TAXIWAYS ON AN “AS NEEDED” BASIS (RFP #37691)**

**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 that 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 contains 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**

**PERFORMANCE OF EXPERT PROFESSIONAL AIRFIELD PLANNING SERVICES  
FOR NEWARK LIBERTY INTERNATIONAL AIRPORT RUNWAYS 4L-22R AND  
4R-22L END-AROUND TAXIWAYS ON AN “AS NEEDED” BASIS (RFP #37691)**

**COMPANY PROFILE**

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 Port 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 Port Authority, see the Port Authority’s web site – <http://www.panynj.gov/business-opportunities/supplier-diversity.html>, to receive information and to apply for certification.

**P.A. Agreement #AVI-\*\*-\*\*\***

DATE

FIRM NAME

ADDRESS

CITY, ST ZIP

Attention: CONTACT, TITLE

**SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL AIRFIELD PLANNING SERVICES FOR NEWARK LIBERTY INTERNATIONAL AIRPORT RUNWAYS 4L-22R AND 4R-22L END-AROUND TAXIWAYS ON AN "AS- NEEDED" BASIS**

Dear CONTACT:

1. The Port Authority of New York and New Jersey ("Authority") hereby offers to retain FIRM NAME ("the Consultant" or "you") to provide expert professional Airfield Planning Services for Newark Liberty International Airport Runways 4l-22r and 4r-22l End-Around Taxiways on an "as-needed" basis 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, Aviation 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 \*\*\*, TITLE, to act as his duly authorized representative. The Project Manager for this project is \*\*\*\*\*, 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 response to a request for specific services hereunder and prior to the performance of any such services, you shall submit in writing to the Director for approval an estimated cost and staffing analysis of such services to the Authority. Approval of such cost and direction from the Director in writing to proceed shall effectuate the performance of services under this Agreement. After the point at which your expenditures for such services reach such approved estimated cost, you shall not continue to render any such services unless you are specifically authorized in writing to so continue by the Director and you shall submit to him for approval a revised written estimated cost of such services. If no such authorization is issued, the performance of the specifically requested services under 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 an amount equal to the approved estimated cost. Preparation of the cost estimate and staffing analysis mentioned in the first sentence of this paragraph shall not be a compensable service hereunder.

5. 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.

6. 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.

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

8. 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 provisions set forth in paragraphs 4 and 6 above. Subject to the terms and conditions below, travel time is not reimbursable under subparagraphs A, B, and C hereunder.

A. The Consultant shall be compensated at an amount equal to \*.\* times the actual salaries paid by you to professional and technical personnel (but not to partners or principals) for time actually spent by them in the performance of services hereunder, plus an amount equal to the number of hours actually spent by partners and principals in the performance of services hereunder times the billing rate (no multiplier applied) described below but in each case excluding premium payments for overtime work or night work or for performing hazardous duty. Attached hereto is a schedule of actual salaries and titles of architects, engineers, technical staff or other permanent professional and technical personnel employed by you, as well as rates customarily billed for partners and principals on projects such as this. Said staffing analysis shall

clearly indicate any of your employees, proposed by you to perform the requested services, that are former Port Authority employees. For compensation purposes under this Agreement, no said salary or amount shall exceed the salary or amount received by said personnel or rate customarily billed for a partner or principal as of the effective date of this Agreement unless the Director has been notified in advance, in writing, of the increased salary, rate or amount and approves the increase.

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 I-9 Program. Furthermore, upon request of the Authority, the Consultant shall furnish, or provide access to the Authority to, federal Form I-9 (Employment Eligibility Verification) for each individual hired by the Consultant performing services hereunder. This includes citizens and noncitizens.

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

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

B. An amount equal to the premium payments for overtime work or night work or for performing hazardous duty actually paid to partners, principals, other professional or 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 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 its services, as part of any request for approval of the subconsultant.

D. The Consultant will 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 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.

These expenses do not include expenses that are usually and customarily included as part of the Consultant's overhead. For the purposes of this Agreement out-of-pocket expenses do not include amounts for mailing and delivery charges; 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 its 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 United States General Services Administration (GSA) - <http://www.gsa.gov/portal/content/100715>, per mile traveled by auto.

When the Consultant is asked to provide services outside the Port District, the actual cost of transportation as well as the cost for hotel accommodations and meals shall be reimbursable hereunder when approved in advance in writing by the Director. The cost for all meals and lodging on approved overnight trips shall be 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 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 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 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 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 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 that 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.

9. 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 constitute 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 year after completion of services to be performed under this Agreement.

10. On or about the fifteenth day of each month, you shall render a bill for services performed and reimbursable out-of-pocket expenses incurred in the prior month, accompanied by such records and receipts as required, to the Project Manager. Each invoice shall bear your taxpayer number and the purchase order number provided by the Director. Upon receipt of the foregoing, the Director will estimate and certify to the Authority the approximate amount of compensation earned by you up to that time. As an aid to you the Authority will, within fifteen 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. If research or development is furnished in connection with the performance of this Agreement and if in the course of such research or development patentable subject matter is produced by the Consultant, 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.

18. 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.

19. 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.

20. 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 owned by one or more members of one 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 or more members of one or more minority groups; and whose management and daily business operations are controlled by one 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 owned by one or more women; or, in the case of a publicly held corporation, 51 percent of the stock of which is owned by one or more women: and whose management and daily business operations are controlled by one 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 participation by qualified and certified MBEs and 5 percent by 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 shall be required to submit to the Authority's Office of Business Diversity and Civil Rights for certification the names of MBE/WBE firms it proposes to use who are not on the list of certified MBE/WBE firms.

## 21. NOTIFICATION OF SECURITY REQUIREMENTS

The Authority has the responsibility of ensuring safe, reliable and secure transportation facilities, systems, and projects to maintain the well-being and economic competitiveness of the region. Therefore, the Authority reserves the right to deny access to certain documents, sensitive security sites and facilities (including rental spaces) to any person 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 a 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:

- Execution of Non-Disclosure and Confidentiality Agreements and Acknowledgments

At the direction of the Authority, you shall be required to have your employees, subconsultants and their employees execute Authority approved non-disclosure agreements.

- 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 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 non-public areas of the Authority's construction sites or facilities (including rental spaces) without a facility-specific photo identification credential approved by the Authority. If the Authority requires facility-specific identification 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 at, 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 Agreement.

- Access control, inspection, and monitoring by security guards

The Authority may provide for Authority construction sites or facilities (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 subconsultants and service suppliers at the Authority construction sites or facilities (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 sites or facilities 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 CI and other 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,

CI 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.

22. 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 the Consultant assumes or is responsible for risks or claims only of the type enumerated in this clause or in any other clause of this

Agreement, or (c) to limit the risks which the Consultant would assume or the claims for which 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.

## 23. 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 Contractors' coverages in limits of not less than \$2,000,000 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 \$2,000,000 combined single limit per accident for bodily injury and property damage. Any/all activities performed airside must, at all times, be performed while under security escort as approved in advance, and in writing by the Project Manager. If at any time, the Consultant is unescorted in the performance of any field services airside, or if so directed by the Authority, the Commercial General Liability Insurance and Automobile Liability Insurance must contain limits of not less than \$25,000,000 combined single limit per occurrence, as provided in item 2) (a) below. In addition, the liability policies (other than Professional Liability) shall include the Authority and its related wholly-owned entities as additional insureds and shall be specifically endorsed with an endorsement 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 written 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:

The Consultant shall take out and maintain Professional Liability Insurance in limits of not less than \$2 million 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 at the site, the Consultant shall deliver a certificate from its insurer evidencing policies of the above insurance stating the title of this Agreement, the P. A. 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 at the premises. 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.

24. 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 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.

25. 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 in Sections 24 and 25, 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 "25G.", 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, or during the term of this Agreement, 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.

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. 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.

## **26. 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.

## 27. CONSULTANT RESPONSIBILITY, SUSPENSION OF WORK AND TERMINATION

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

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

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

## 28. NO GIFTS, GRATUITIES, OFFERS OF EMPLOYMENT, ETC.

At all times, the Consultant shall not offer, give or agree to give anything of value either to 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 ensure 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.

In the event that the Consultant becomes aware of the occurrence of any conduct that is prohibited by this section entitled “No Gifts, Gratuities, Offers of Employment, Etc.”, it shall report such occurrence to the Authority’s Office of Inspector General within three (3) business days of obtaining such knowledge. (See “<http://www.panynj.gov/inspector-general>” for information about reporting information to the Office of Inspector General). Failing to report such conduct shall be grounds for a finding of non-responsibility.

In addition, 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.

## 29. 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 if the Consultant’s participation in the preparation, negotiation

or award of any agreement with such a Consultant or the review or resolution of a claim in connection with such an agreement is contemplated or if the Consultant has reason to believe that any other situation exists which might be viewed as or give the appearance of a conflict of interest, the Consultant shall immediately inform the 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. The Authority's determination regarding any conflict of interest shall be final.

### 30. DEFINITIONS

As used in sections 24 to 29 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 if 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 title(s) known.

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

31. 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.

32. 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.

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

34. 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:

Company: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **INSTRUCTIONS**

If the selected Consultant firm is not located in the States of New York or New Jersey, change the number of the last Paragraph of this Agreement from "34" to "35" and insert a new Paragraph "34": as follows:

34. 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.