

March 4, 2016

**SUBJECT: REQUEST FOR PROPOSALS FOR BROKERAGE SERVICES FOR FIDELITY AND CRIME INSURANCE PLACEMENT PROGRAM (2016 THROUGH 2019) (RFP #45177)**

Dear Sir or Madam:

The Port Authority of New York and New Jersey (the “Authority”) is seeking proposals (“Proposals”) in response to this Request for Proposals (RFP) for a brokerage firm (the “Firm”) to provide the placement of Fidelity and Crime Insurance for a term of three (3) years (2016-2019). The Authority reserves the right to extend the agreement for an additional one (1) year, through 2020, at its sole discretion.

The scope of the tasks to be performed by the Consultant are set forth in Attachment A to the Authority’s Standard Agreement (the “Agreement”), attached to this letter. You should carefully review this Agreement as it is the form of agreement that the Authority requires that you sign in the event of acceptance of your proposal (“Proposal”) and forms the basis for the submission of Proposals.

**I. PROPOSER REQUIREMENTS**

The Authority seeks an insurance brokerage firm that has significant experience in placing the above types of coverage and that can demonstrate experience in handling complex insurance programs for comparable risks. The Authority will only consider Proposals from firms (“Proposers”) able to demonstrate that they meet the following qualification requirements:

- A. The brokerage firm must have been in existence for at least ten (10) years.
- B. The brokerage firm and its brokers assigned to The Authority’s account must possess either a resident or non-resident insurance broker license in the States of New York and New Jersey.
- C. The brokerage firm must carry and provide evidence of “errors and omissions” liability insurance with a minimum limit of two (\$2 million) per occurrence.
- D. The brokerage firm must maintain an office in the New York metropolitan area (Proposals must identify the office address).
- E. The brokerage firm must possess access to A-rated insurers that typically write Fidelity and Crime Insurance. Proposals must describe in a written statement such access and whether such access is through other offices of your company, correspondent brokers, or other methods.

**II. PROPOSAL FORMAT REQUIREMENTS**

To respond to this RFP, the Proposer shall submit a concise Proposal complying with the following format requirements (product brochures and other sales literature will not be accepted as substitutes for written responses to this RFP):

- A. To be acceptable, the Proposal shall be of no more than ten (10) pages single-sided or five (5) pages double-sided, using 12-point or greater font size. The page limit pertains

only to Letters E, F and G in Section III below. Proposal pages shall be numbered and bound, with “Your Firm Name” and “RFP Number **45177**” 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 each of the requirements specified below in Section III.
- C. All proposals must be delivered in sealed envelopes or packages. Address the Proposal to: The Port Authority of New York and New Jersey, Attention: RFP Custodian, Procurement Department, 4 World Trade Center, 150 Greenwich Street, 21st Floor, New York, NY 10007. Do not address your Proposal to any other name. Clearly mark the solicitation number on the outermost package. You are required to submit one (1) reproducible original and five (5) copies, along with six (6) electronic copies (compact disc or flash drive), of your Proposal for review. Notwithstanding retention of the electronic copies, in case of conflict, the reproducible original of the Proposal and the written hard copy Agreement, if awarded, shall take precedence over material on the electronic media.
- D. In each submission to the Authority, including any return address label, information on the electronic copy and information on the reproducible original and copies of the Proposal, the Proposer shall use its **FULL LEGAL NAME WITHOUT ABBREVIATIONS**. Failure to comply with this requirement may lead to delays in contract award and contract payments, which shall be the responsibility of the Proposer.
- E. Provide the address of your firm to which any written correspondence should be sent.
- F. Your Proposals should be forwarded in sufficient time so that the Authority receives them **no later than 2:00 p.m. on March 18, 2016**. The cover of your submittal must include the RFP Number and the RFP title, both as stated above. The Authority assumes no responsibility for delays caused by any delivery services.
- G. If your Proposal is to be hand-delivered, please note that only individuals with proper identification (e.g. photo identification) will be permitted access to the Authority’s offices. Individuals without proper identification will be turned away and their packages not accepted.

There is extensive security at the World Trade Center Site. You must present a valid government-issued photo ID to enter 4 WTC. Individuals without packages or carrying small packages, envelopes or boxes that can be conveyed by hand or on a hand truck may enter through the lobby. All packages, envelopes and boxes may be subject to additional security screening. There is no parking available at 4 WTC/150 Greenwich Street, and parking in the surrounding area is extremely limited. Express carrier deliveries by commercial vehicles will only be made via vendors approved by Silverstein Properties, the WTC Property Manager, through the Vehicle Security Center (VSC). Please note that use of the U.S. Mail does not guarantee delivery to Authority offices by the above listed due date for submittals. Proposers using the U.S. Mail are advised to allow sufficient delivery time to ensure timely receipt of their proposals. Presently, UPS is the only delivery vendor with approved recurring delivery times. UPS makes deliveries to 4 WTC around 9:30 a.m. each day. Please plan your submission accordingly. As additional express carriers may be approved by Silverstein Properties and scheduled for recurring delivery times with the VSC, this information may be updated. Under certain

circumstances, a solicitation may allow for a commercial vehicle to be approved to make a delivery in accordance with the VSC procedures. If applicable, the specific solicitation document will include that information. The Port Authority assumes no responsibility for delays, including, but not limited to, delays caused by any delivery services, building access procedures, or security requirements.

**III. SUBMISSION REQUIREMENTS:**

In order for your Proposal to be considered, your Proposal must provide all of the following information in the order listed. (Failure to address each question in each Section and subsection shall result in your proposal deemed as non-responsive, and it shall not be considered for this Agreement):

**A. AGREEMENT ON TERMS OF DISCUSSION**

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

**B. TRANSMITTAL LETTER**

Each Proposer shall submit a transmittal letter on its letterhead, signed by an authorized representative, demonstrating compliance with each of the aforementioned “Proposer Requirements” listed above in Section I.

**C. COMPANY PROFILE**

A completed copy of Attachment C (Company Profile).

**D. STAFF QUALIFICATIONS AND EXPERIENCE**

Identify the proposed account teams, including any subconsultants, that will be assigned to perform the services described in Attachment A. Include resumes for all proposed team members that demonstrate both professional and educational background. Each resume shall be 2-page maximum, single-sided or 1-page double-sided, using 12- point or greater font size. Indicate any significant responsibilities and commitments these individuals may have in handling the Authority’s account.

For the primary Account Executive indicate the following:

1. Number of clients
2. Length of time with the brokerage firm
3. Length of career in insurance or risk management
4. Number of days per year expected to be spent on the Authority’s account
5. Estimate of percentage of time commitment given to each client
6. Experience with exposure similar to that of the Authority’s, as more fully described in the Application for a Commercial Crime Policy for Commercial and Government Entities (see Section VI. below)
7. References and contact information for each similar client

E. FIRM QUALIFICATIONS AND EXPERIENCE

For each of the accounts identified in your transmittal letter provide the following information:

1. Name and address of client
2. Reference contact, title and telephone number
3. Industry sector and types of exposure
4. Period of time services were provided

F. TECHNICAL APPROACH

Provide your technical approach to placement of the required programs. Your approach shall include innovative strategies that your firm believes the Authority would be able to utilize as part of its operational insurance platform and shall include, but not be limited to:

1. Identify alternative risk financing techniques, and optimal self-insured retentions.
2. Provide details on the analytic tools available to assist the Authority with evaluating the underwriting and purchase of the Program.
3. Describe your proposed approach to marketing and placing the Authority's program.
4. Provide formal insurer quotation for program based on underwriting information provided by the Agency and included herein.
5. Discuss how you provide ongoing services and responses to inquiries, day-to-day administration of insurance matters and consultation on policy coverage.
6. Describe the precise manner in which you shall assist the Authority in identifying risks arising from facility operations.
7. Discuss and describe serious problems you have encountered with clients having a high self-insured retention and your solutions to these problems.
8. Describe your role in dealing with primary/excess insurers regarding claims.
9. Discuss the type of claims reporting procedures you would establish.
10. Market Strategy - Present your insurance market strategy for each insurance program individually, to include, but not be limited to the following, in the order listed:
  - a) The most difficult insurance market issues faced by the Authority;
  - b) Strategy(ies) for overcoming the marketing difficulties identified;
  - c) Areas where the Authority underwriting information might be expanded or revised;
  - d) The state and dynamics of the insurance markets as they pertain to the Authority's risk profile;
  - e) Describe how you will involve the Authority's staff in the marketing of the programs to the insurers.

G. MANAGEMENT APPROACH

Describe in detail the management approach to be taken to perform the required services. Your management approach shall include, but is not limited to:

1. An organizational chart that identifies the key individuals, their firm, task responsibility, and reporting relationships.
2. Describe your firm's commitment to customer service and quality assurance.
3. Explain the quality control program of the firm.
4. Explain methods employed to assure accurate and timely receipt of policies, endorsements and billings.

H. COST PROPOSAL

Complete and submit the "Cost Proposal Form" (Attachment D). As indicated on the form, provide fixed annual fees for providing the services indicated in Attachment A for the Fidelity and Crime insurance. ***Proposal must include formal insurer quotation(s).*** Underwriting information, including expiring policy, will be provided to prospective brokers through the Application for a Commercial Crime Policy for Commercial and Government Entities (see Section VI. below).

Your cost proposal shall also address the following items in the order listed:

1. Indicate all insurer premiums, fees, commissions, or other revenues to be earned on the Authority account to be paid by the Authority or other parties. Provide an annual total compensation figure for all services performed, as stated above.
2. Indicate whether your firm is capable of, and is willing to, provide the Authority with a monthly accounting of the staff time spent on the account.

I. MBE/WBE PARTICIPATION

Your attention is directed to paragraph 19 of the Authority's Standard Agreement, in which the Director has stated the goals for Minority and Women-Owned Business Enterprise participation in this project. Submit details on how you intend to meet these goals. A listing of certified MBE/WBE firms will be provided upon request, if such firms are available for the discipline(s) of work for which you intend to retain their services. If you plan to use an MBE or WBE firm that is not certified by the Authority, but which appears to meet the Authority's requirements, the firm should begin the Authority's certification process. You may propose such a firm with a statement that the firm has applied for Authority certification. Potentially certifiable MBE and WBE firms should contact the Authority. Contact information and certification applications are available on the Authority's website: <http://www.panynj.gov/business-opportunities/sd-become-certified.html>

- J. Provide a complete list of your firm's affiliates. Affiliates shall be defined as follows: Two (2) or more firms are affiliates if a parent owns more than fifty (50%) percent of the voting stock of each of the firms, or a common shareholder or group of shareholders owns more than fifty (50%) percent of the voting stock of each of the firms, or if the firms have a common proprietor or general partner.

**K. BROKERAGE FIRM DISCLOSURES**

1. Provide a written statement signed by an authorized representative that the Proposer is not engaged in any illegal activities. In addition, describe the nature of any investigation by or litigation with any governmental or regulatory entity.
2. Provide information on the Proposer's contingent/enhanced commission arrangements, if any, with insurers, and describe your plans to eliminate them, if any.
3. Indicate any insurance company related entities in which the Proposer has, or expects to retain, any financial and/or legal interest.
4. Provide a copy of the Proposer's ethics policy. Describe what processes and procedures are in place to ensure that transactions are completed in a legal and ethical manner including what measures are taken when improper business practices are identified.
5. Provide a written statement signed by an authorized representative that discloses any known or potential conflicts of interest that could arise in connection with the Proposer's duties on this account. The Authority reserves the right to disqualify the Proposer if, in its sole discretion, any interest disclosed from any source could create, or give the appearance of, a conflict of interest. The Authority's determination regarding any question(s) of conflict of interest shall be final.

L. A complete list of your firm's affiliates.

**M. CONFLICT OF INTEREST**

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, or circumstances which may give rise to an appearance of impropriety, the Proposer shall include in its Proposal a statement indicating the nature of the conflict or circumstances which may give rise to an appearance of impropriety. The Authority reserves the right to disqualify the Proposer if, in its sole discretion, any interest disclosed from any source could create, or give the appearance of, a conflict of interest or appearance of impropriety. The Authority's determination regarding any question(s) of conflict of interest or appearance of impropriety shall be final.

**N. AGREEMENT EXCEPTIONS**

The Proposer is expected to agree with the standard agreement and its terms and conditions. The Proposer 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 and/or accept any such specific exceptions. Exceptions raised at a time subsequent to proposal submission will not be accepted.

**IV. SELECTION PROCESS:**

The qualifications based selection process shall take into consideration the technical qualifications presented below in order of importance, as well as cost, as appropriate, in the sole discretion of the Authority. After consideration of these factors, the Authority may enter into negotiations with the firm (or firms) deemed best qualified to perform the required

services. Such negotiations shall be conducted between the Authority's contact person as identified herein, or the undersigned, and the individual contact person identified by you.

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

**V. ORAL PRESENTATIONS:**

After review of all Proposal submissions, an oral presentation to the selection committee and others, as appropriate, may be requested. It should be noted that firms selected to make presentations may be given short advance notice. Presentations will be limited to sixty (60) minutes, and shall include material contained in your Proposal. The presentation would be followed by an approximately thirty (30) minute question and answer session. Proposer's staff providing the presentation shall be led by the proposed Project Manager, who may be supported by no more than six (6) other senior staff members proposed to work on this project. Notification of presentation scheduling is made by email. Provide the name and email address of the contact person for presentation scheduling as well as an alternate in the event that person is unavailable.

**VI. SECURITY REQUIREMENTS FOR AVAILABLE DOCUMENTS**

The Authority will provide the document the "Application for a Commercial Crime Policy for Commercial and Government Entities" to Proposers interested in responding to this RFP upon request. In order to receive this information, Proposers must submit the following:

- A. A Letter of Intent to propose on this RFP, signed by a principal of the firm on firm letterhead.
- B. A completed Attachment C, Company Profile. PLEASE NOTE: The available document will be emailed in encrypted, password protected file only to the contact provided by the firm pursuant to #10 on Attachment C.
- C. A copy of the firm's valid resident or non-resident broker's or insurance producer's license in both the States of New York and New Jersey.
- D. A notarized affirmation signed by a principal of the firm that contains the following certification:
  - 1. the information provided will be kept in confidence;
  - 2. the information provided will be used only for the purpose of obtaining pricing information required to submit a proposal; and
  - 3. the information provided will be destroyed in the event of notification that the firm was not awarded this Contract.

Please send a PDF attachment of the above requested information to Ekatherina Carrera at [ECarrera@panynj.gov](mailto:ECarrera@panynj.gov) and mail a hard copy with original signatures to the following address:

The Port Authority of NY & NJ  
Attention: Ekatherina Carrera  
Procurement Department  
150 Greenwich Street, 21st Floor  
New York, NY 10007

E-mailed PDF requests must be received by March 16, 2016, no later than 1:00PM. The Available Documents will be emailed as set forth above at or about 3:30PM on March 16, 2016, to all Proposers which have submitted the Letter of Intent and required documentation.

Submission of any information requested in this Section “SECURITY REQUIREMENTS FOR AVAILABLE DOCUMENTS” is separate and apart from that also requested elsewhere in this RFP document. If the information is also required under any section of the RFP, including, but not limited to, Proposal Submittal Requirements and Proposer Prerequisites, the information must **also** be submitted with the firm’s proposal. Submission of such information in response to this Section will not constitute submission of the information for purposes of the RFP.

**VII. ADDITIONAL INFORMATION:**

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

If your firm is selected for performance of the subject services, the Agreement you will be asked to sign, at that time, will include clauses entitled “Certification of No Investigation (Criminal Or Civil Anti-Trust), Indictment, Conviction, Debarment, Suspension, Disqualification and Disclosure Of Other Information” And “Non-Collusive Proposing And Code Of Ethics Certification; Certification Of No Solicitation Based On Commission, Percentage, Brokerage, Contingent Or Other Fees” (see paragraphs 23-24 of the form of Agreement). By submitting a Proposal, the Firm shall be deemed to have made the certifications contained therein unless said Firm submits a statement with his Proposal explaining why any such certification(s) cannot be made. Such a submission shall be submitted in a separate envelope along with your Proposal, clearly marked “CERTIFICATION STATEMENT.”

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

Following selection of a Firm, the Authority will forward two (2) copies of the Agreement to

the selected firm, which must sign and return both copies. The return to you of one copy of the Agreement executed by the Authority will effectuate the Agreement.

Should you have any questions, or to request access to information and/or materials that are not available on the Authority's website, please contact Ms. Ekatherina Carrera, by email at [ECarrera@panynj.gov](mailto:ECarrera@panynj.gov). All such correspondence must have your name, title, company, mailing address, telephone number and state "**RFP #45177**" in the subject line. The Authority must receive all questions no later than 4:00 P.M., seven (7) calendar days before the RFP due date. Neither Ms. Carrera nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate.

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

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

Sincerely,

David Gutiérrez, CPPO  
Assistant Director  
Procurement Department

Attachments

## ATTACHMENT A

### PERFORMANCE OF EXPERT PROFESSIONAL BROKER SERVICES FOR FIDELITY AND CRIME INSURANCE PLACEMENT PROGRAM (2016 THROUGH 2019)

#### I. BACKGROUND

For background with respect to The Port Authority of New York and New Jersey (the “Authority”) see [www.panynj.gov](http://www.panynj.gov). Additionally, the most recent electronic version of the Authority’s Annual Report is available at <http://www.panynj.gov/annual-reports/>.

The Authority’s Treasury Department includes a Risk Financing Division that is responsible for preserving the Authority’s financial, physical and human assets and resources by developing and administering risk transfer, retention and reduction policies, programs and techniques. In carrying out this responsibility, centralized internal controls and evaluation processes are maintained in order to effectively assess the Port Authority’s loss-bearing capacity and its exposure to financial and physical loss. Information can be found in the Port Authority’s annual report available on its website.

Fidelity and Crime Insurance provides financial protection to the Authority from acts of employee dishonesty or theft, as well as computer or wire fraud perpetrated by non-employees. This coverage is necessary as the Authority’s property damage and loss of revenue insurance policy excludes coverage in these areas.

The current policy is underwritten by Fidelity & Deposit Company of Maryland (F&D), a subsidiary of Zurich Insurance. The insurance broker will be responsible for facilitating the underwriting submission, including the transmission of any forms, documents, applications, endorsements, etc. between the Port Authority and the insurance underwriter, to ensure that appropriate coverage remains in place at all times during the duration of its contract.

#### II. SCOPE OF WORK

The services of the insurance brokerage firm (the “Consultant”) shall generally consist of renewal and administration of the Authority’s Fidelity and Crime insurance placement program. The Fidelity and Crime insurance placement program provides for coverage for theft of Authority money, securities, and other property in a safe or vault, or while in transit between locations, as well as protection against forgery/alteration, and counterfeit money orders or paper currency, at a total limit of \$20 million per occurrence, with a \$250,000 deductible.

#### III. DESCRIPTION OF CONSULTANT’S TASKS

Tasks to be performed by the Consultant may include, but are not limited to:

##### TASK A. PROGRAM DEVELOPMENT AND MANAGEMENT

1. Act as liaison with insurers to provide the Authority with direct access to the underwriting community in order to effectively and efficiently obtain the best insurance terms and coverage.
2. Advise the Authority on the availability and appropriateness of insurance products to respond to changing exposures related to fidelity and crime.

3. Verify accuracy of all policies, endorsements, and carrier billings to ensure the following:
  - a. That the coverage reflects the Authority's directive;
  - b. That the coverage is appropriate for the Authority's exposure; and
  - c. That all terms and conditions are applicable and sufficient to the Authority.
4. Monitor insurance company services and financial security of all participating carriers and notify the Authority of any potential financial security issues.
5. Immediately notify the Authority if A.M. Best has downgraded any carrier on the Authority's program or is on a negative watch. Present your strategy to replace the affected carrier in a report for review by the Authority within fifteen (15) calendar days of notification to the Authority.
6. Prepare and issue required insurance certificates in accordance with standards, procedures, and specifications to be provided by the Authority.
7. Allocate and provide premium invoices and adjustments to the Authority, as deemed necessary by the Authority.
8. Resolve coverage questions and disputes in a timely and amicable fashion, as appropriate.
9. Provide periodic reviews, at least once per policy period or more, if required by the Authority, of service status, program parameters and records with the Director of the Authority's Treasury Department or her duly authorized representative.
10. Facilitate communication between the Authority's representative(s) and the insurance carrier with respect to the coordination of jurisdictional inspections, as deemed necessary by the Authority.

#### TASK B. PROGRAM RENEWAL

1. Meet with the Authority to discuss the renewal goals and strategy at least sixty (60) days prior to each policy renewal period.
2. Develop annual renewal specifications based on the determined goals and strategy of the pre-renewal meeting.
3. Prepare and distribute underwriting submissions to all markets in a timely manner, as defined by the market standards.
4. Negotiate best terms and conditions with insurers on behalf of the Authority.
5. Create and maintain an annual service-planning calendar and develop renewal proposals in conformity with the period specified by the Authority.
6. Provide the Authority with a comprehensive review of policy forms and endorsements at the time of renewal for accuracy, as well as to identify enhancements to coverage for the program.
7. Notify the Authority of any identified "gaps" in coverage or inadequate coverage, and propose method(s) to remedy said deficiencies in a timely and cost-effective manner.
8. Transmit completed renewal policies and binders within ninety (90) days of the renewal date to the Authority's Risk Financing Division.

### TASK C. ADDITIONAL SERVICES

When directed by the Authority, the Consultant shall:

1. Provide presentations to the Authority's Board of Commissioners and others, as determined by the Authority, on issues relating to the renewal, coverage, and market updates of the Fidelity and Crime insurance placement program.
2. Provide interpretation and analysis of specific insurance coverage issues as determined by the Authority.
3. Prepare insurance data for audits within fifteen (15) days of request by the Authority.
4. Review and participate in the settlement of claims as required.

### **IV. LIABILITY AND WORKERS' COMPENSATION INSURANCE REQUIREMENTS**

#### A. Commercial General Liability Insurance

The Consultant shall take out and maintain, at its own expense, the following policies of insurance:

- a. Errors and Omissions Liability insurance with a minimum limit of two million (\$2 million) per occurrence.
- b. Commercial General Liability Insurance including but not limited to Premises-Operations, Completed Operations and Independent Contractor coverages and Comprehensive Automobile Liability Insurance (covering any owned, non-owned, and hired autos) in limits of not less than \$2,000,000 combined single limit per occurrence for Bodily Injury Liability and Property Damage Liability. The policy shall include the Authority, the Port Authority Trans-Hudson Corporation (PATH), Newark Legal and Communications Center Urban Renewal Corporation, New York and New Jersey Railroad Corporation, WTC Retail LLC, 1 World Trade Center LLC, Port District Capital Projects LLC, and New York New Jersey Rail LLC as additional insureds and shall contain a provision that the policy may not be canceled, terminated or modified without thirty days written advance notice to the Project Manager as noted below. The policy shall be specifically endorsed to prohibit the insurance carrier from raising 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 without obtaining express written advance permission from the General Counsel of the Authority.

#### B. Workers' Compensation Insurance

The Consultant shall also procure and maintain Statutory Workers' Compensation Insurance in accordance with the requirements of law, and shall ensure that any inspectors that perform work on the Authority's property have in place statutory Workers' Compensation Insurance.

### **V. SUBMISSION REQUIREMENTS**

1. Prior to commencement of work, the Consultant shall deliver two copies of a Certificate of Insurance evidencing insurances specified in Section "IV" above. The certificate(s) evidencing the above insurances must indicate the title and number of this Agreement,

contain a separate express statement of compliance with each of the requirements above set forth in this clause, and must be presented as follows:

One copy to the Risk Financing Division representative at the following addresses:

The Port Authority of NY & NJ  
Steve Mikhlin, Manager, Insurance  
150 Greenwich Street, 19<sup>th</sup> Floor  
New York, NY. 10006

2. Upon request of the Manager, Risk Financing Division, the Broker shall furnish to the Authority a certified copy of each policy, including the provisions establishing premiums.

\* \* \*

**P.A. AGREEMENT #\*\*\*-\*\*-\*\*\***

DATE

FIRM NAME

ADDRESS

CITY, STATE ZIP

Attention: CONTACT NAME, TITLE

**SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL BROKERAGE SERVICES FOR FIDELITY AND CRIME INSURANCE PLACEMENT PROGRAM (2016 THROUGH 2019)**

Dear CONTACT:

1. The Port Authority of New York and New Jersey (the "Authority") hereby offers to retain FIRM NAME (the "Consultant" or "you") to provide expert professional services as more fully set forth in Attachment A, which is attached hereto and made a part hereof, during 20\*\* through 20\*\*. The Authority reserves the right, at its sole discretion, to extend this Agreement term for one (1) additional year period (20\*\*). A letter extending the Agreement term shall be sent to the Consultant at least 30 days prior to the end of the term signed by the Chief Procurement Officer.

2. This Agreement shall be signed by you and by the Authority's Chief Procurement Officer. As used herein and hereafter, the "Director" means the Director, Department/Office of the Authority, or duly authorized representatives acting within the scope of the particular authority vested in them.

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

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

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

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

6. As full compensation for all your services and obligations in connection with this Agreement, the Authority will pay you following amounts:

A. For performance of all the Consultant's services from \*\*\*\* until \*\*\*\*\*, the Lump Sum Amount of \$\*\*\*\*\*.

B. An amount equal to the amounts actually paid to subconsultants hereunder who have been retained after the Treasurer's written approval of the subconsultant and the compensation to be paid to the subconsultant. The Consultant shall submit a copy of the term and conditions of the subconsultants compensation as part of any request for approval of the subconsultant.

C. Compensation under this Agreement is subject to the following conditions:

- The Consultant's Fidelity and Crime Insurance commissions are capped at \*% for the program service term and any extension options.

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

7. You shall render an invoice for services to the Project Manager thirty (30) days prior to the inception date of each individual year under the Agreement to provide the Authority sufficient time to process payment in a timely manner. Each invoice shall bear your taxpayer number and the purchase order number provided by the Director. Upon receipt of the foregoing, the Director will estimate and certify to the Authority the approximate amount of compensation earned by you up to that time. As an aid to you, the Authority will, within thirty (30) days after receipt of such certification by the Director, advance to you by check the sum certified minus all prior payments to you for your account.

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

individual hired by the Consultant, performing services hereunder. This includes citizens and noncitizens.

8. 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 will pay you as the full compensation to which you shall be entitled in connection with this Agreement the amounts computed as above set forth for services completed to the satisfaction of the Director through the date of termination, minus all prior payments to you.

9. You shall not issue or permit to be issued any press release, advertisement or literature of any kind which refers to the Authority or to 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.

10. 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 you are otherwise instructed by the Director.

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

12. No certificate, payment (final or otherwise), acceptance of any work or 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.

13. 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 will have the right to use or permit the use of them and of any ideas or methods represented by them for any purpose and at any time without compensation other than that specifically provided herein. The Consultant hereby warrants and represents that the Authority will have at all times the ownership and rights provided for in the immediately preceding sentence free and clear of all claims of third persons, whether such claims presently exist or arise in the future and they are whether presently known to either of the parties to this Agreement or not. This Agreement shall not be construed, however, to require the Consultant to obtain for the Consultant and the Authority the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless owned by the Consultant, by a subconsultant or by 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 in which it 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.

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

15. Notwithstanding anything to the contrary herein, the work product of the Consultant, its officers, agents, employees or sub-consultants, which is produced in accordance with the Agreement, whether it consists of computer programming or documentation thereof, including source code, and on any media whatsoever, shall be deemed to belong exclusively to the Authority, and the Authority will have the exclusive right to obtain and to hold in its own name any and all copyrights, patents, trade secrets and/or other proprietary rights and protection as may be produced as part of this work product, including the right to extensions or renewals, where appropriate. The work product shall not be destroyed or released to anyone outside of the Treasury Department without express written authorization of the Director. The Authority will have the exclusive right to use or permit the use of them and of any ideas or methods represented by them for any purpose and at any time without compensation other than that specifically

provided for herein. You agree to contract with your employees for the benefit of the Authority to ensure that the Authority has such rights and to give to the Authority or any party designated by the Authority all assistance reasonably required to perfect the rights herein above stated. You shall indemnify and hold harmless the Authority against any claims of proprietary rights infringement arising out of such use of your work product.

16. You shall promptly and fully inform the Director in writing, of any intellectual property dispute, 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.

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

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

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

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

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

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

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

## 20. NON-DISCRIMINATION REQUIREMENTS

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

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

B. Consultant agrees that these "Non-Discrimination Requirements" are a binding part of this Agreement. Without limiting the generality of any other term or provision of this Agreement, in the event the Authority, or a state or federal agency finds that the Consultant or any of its subconsultants or vendors has not complied with these "Non-Discrimination Requirements", the Authority may cancel, terminate or suspend this Agreement in accordance with Section 8 of this Agreement.

C. Consultant agrees to cooperate fully with the Authority's investigation of allegations of discrimination. Cooperation includes, but is not limited to, allowing the Authority to question employees during the investigation of allegations of discrimination, and complying with

directives that the Authority or the State or Federal government deem essential to ensure compliance with these “Non-Discrimination Requirements.”

## 21. NOTIFICATION OF SECURITY REQUIREMENTS

The Authority has the responsibility of ensuring safe, reliable and secure transportation facilities, systems and projects to maintain the well-being and economic competitiveness of the region. Therefore, the Authority reserves the right to deny access to certain documents and to sensitive security sites and facilities (including rental spaces) to any person who declines to abide by Authority security procedures and protocols and to any person with a criminal record with respect to certain crimes or who may otherwise pose a threat to the construction site or facility security. The Authority reserves the right to impose multiple layers of security requirements on the Consultant, its staff and subconsultants and their staffs, depending upon the level of security required, and to 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 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 personal identity verification checks. 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 (1) 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, (2) screening of federal, state, and/or local criminal justice agency information databases and files, (3) screening of any terrorist identification files and (4) 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. Costs for staff that are rejected for a credential for any reason are not reimbursable.

- Issuance of Photo Identification Credential

No person shall be permitted on or about the 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 credentials for the Consultant and the subconsultant's staff, the Authority will supply such identification at no cost to the Consultant or its subconsultants. Such facility-specific identification credential shall remain the property of the Authority and shall be returned to the Authority at the completion or upon request prior to completion of the individual's assignment at the specific facility. Consultant shall immediately report to the Authority the loss of any staff member's or subconsultant's individual facility-specific identification credential. The Consultant will 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 identity 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 will require the observance of certain security procedures with respect to Secure Areas, which may include the escort to, at, and/or from said high security areas by security personnel. All personnel that require access to designated Secure Areas who are not under escort by an authorized individual will be required to undergo background screening and personal identity verification.

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

- Access control, inspection, and monitoring by security guards

The Authority may provide for Authority construction sites or facilities (including rental spaces) access control, inspection and monitoring by Port Authority Police or Authority retained consultant security guards. However, the presence of Port Authority Police or Authority retained consultant security guards 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 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 to make sketches on any other medium at any Authority site or facility (including any rental space), except when necessary to perform the Work under this Agreement, without prior written permission from the Authority. Upon request, any photograph, digital image, video recording or sketch made of any Authority sites or facility shall be submitted to the Authority to determine compliance with this paragraph, which submission shall be conclusive and binding on the submitting entity.

- Compliance with the Port Authority Information Security Handbook

This Agreement may require access to Authority information considered Protected Information (“PI”) as defined in the Port Authority Information Security Handbook (“Handbook”), dated October, 2008, corrected as of November 14, 2013, and as may be further amended. The Handbook and its requirements are hereby incorporated into this Agreement and will govern the possession, distribution and use of PI if at any point during the lifecycle of the project or solicitation it becomes necessary for the Consultant to have access to PI. Consultant shall protect sensitive information by applying 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, PI procedures, protocols and practices, which may include, but which are not necessarily 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 they may arise 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 against the Authority, for loss or damage to any property of the Consultant’s agents, employees, subcontractors, subconsultants, materialmen or others performing services hereunder;

D. The risk of claims, just or unjust, by third persons made against the Consultant or its subconsultants or against 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 against the Authority for the payment of workers' compensation, whether such claims are made and whether such injuries, damage or loss are sustained at any time both before and after the completion of services hereunder.

The Consultant shall indemnify the Authority against all claims described in subparagraphs A through D above and for all expense incurred by the Authority in the defense, settlement or satisfaction thereof, including expenses of attorneys. If so directed by the Authority, the Consultant shall defend against any claim described in subparagraphs B, C and D above, in which event the Consultant shall not without obtaining express advance permission from the General Counsel of the Authority raise any defense involving in any way the jurisdiction of 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. 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 fifty thousand dollars (\$50,000) as a result of any judicial or administrative proceeding with respect to any license held or with respect to any violation of a federal, state or local environmental law, rule or regulation;
- F. had any sanction imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, proposal rigging, embezzlement, misrepresentation or anti-trust, regardless of the dollar amount of the sanctions or the date of their imposition; and
- 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, including an inspector general of a governmental agency or public authority.

24. 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 March 11, 2014, or as may be revised, (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 certifications in this Section and the Section entitled "Certification of No Investigation (Criminal or Civil Anti-trust), Indictment, Conviction, Debarment Suspension, Disqualification and Disclosure of Other Information" shall be deemed to be made by the Consultant as follows:

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

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

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

In any case where the Consultant cannot make the certifications in this Section and the Section entitled "Certification of No Investigation (Criminal or Civil Anti-trust), Indictment, Conviction, Debarment Suspension, Disqualification and Disclosure of Other Information", the Consultant shall so state and shall furnish with the signed proposal a signed statement which sets forth in detail the reasons therefor. If the Consultant is uncertain as to whether it can make the foregoing certifications, it shall so indicate in a signed statement furnished with its proposal, setting forth in such statement the reasons for its uncertainty. With respect to the foregoing certification in paragraph "24G", 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 Chief Procurement Officer 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 will take appropriate action up to and including a finding of non-responsibility.

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

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

Under certain circumstances, the Consultant may be required as a condition of award of this Agreement to enter into a Monitoring Agreement under which the Consultant 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.

#### 25. 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 of the State of New Jersey that a Consultant is not eligible to propose on or be awarded public agreements because the Consultant has been determined to have engaged in illegal or dishonest conduct or to have violated prevailing rate of wage legislation.

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

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

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

During the term of this Agreement, the Consultant shall remain responsible. To be "responsible" shall mean (1) to have legal authority to do business in the State of New Jersey and/or the State of New York and (2) to possess, in the Authority's opinion, integrity, experience, ability, financial capacity and a satisfactory record of prior performance sufficient to perform the services required under this Agreement. The Consultant agrees, if requested by the Authority, to present evidence that the Consultant is responsible.

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. The Authority may exercise this right to suspend the Consultant by giving the Consultant written notice outlining the particulars of such suspension. Upon receipt of such notice, the Consultant shall comply with the notice's terms. Agreement activity may resume at such time as the Authority issues another written notice authorizing a resumption of performance under the Agreement.

Upon written notice to the Consultant, and an opportunity to be heard with appropriate Authority officials or staff, the Agreement may be terminated by the Authority at the Consultant's expense when the Consultant is determined by the Authority not to be responsible (non-responsible). In

such event, the Authority or its designee may complete the contractual requirements in any manner he or she may deem advisable and may pursue available legal or equitable remedies for breach, including recovery of costs from Consultant associated with such termination.

## 27. 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 to 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, or discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. “Anything of value” 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 or by its personnel for any reason whatsoever from the passengers, tenants, customers or other persons using the Facility and shall so instruct its personnel.

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 constitute grounds for a finding that the Consultant is non-responsible.

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 March 11, 2014, or as may be revised, (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.

## 28. 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, nor shall the Consultant 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 any other 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 other 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 any other consultant or potential consultant of the Authority, and if the Consultant's participation in the preparation, negotiation or award of any agreement with such other 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 Authority in writing of such situation, giving the full details thereof. Unless the Consultant receives the specific written approval of the Authority, the Consultant shall not take the contemplated action which might be viewed as or give the appearance of a conflict of interest. The Authority may require the Consultant to submit a mitigation plan addressing and mitigating any disclosed or undisclosed conflict, and such mitigation plan shall be subject to the approval of the Authority and shall become a requirement imposed on the Consultant, as though fully set forth in this Agreement. In the event the Authority 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 if a portion of the Consultant's said services is determined by the Authority to be no longer appropriate because of such preclusion, then the Authority shall have full authority on behalf of both parties to order that such portion of the Consultant's services not be performed by the Consultant, reserving the right, however, to have the services performed by others; and any lump sum compensation payable hereunder which is applicable to the deleted work shall be equitably adjusted by the parties. The Consultant's execution of this document shall constitute a representation by the Consultant that at the time of such execution the Consultant knows of no circumstances, present or anticipated, which come within the provisions of this paragraph or which might otherwise be viewed as or give the appearance of a conflict of interest on the Consultant's part. The Consultant acknowledges that the Authority may preclude it from involvement in certain disposition/privatization initiatives or transactions that result from the findings of its evaluations hereunder or from participation in any agreements that result, directly or indirectly, from the services provided by the Consultant hereunder. The Authority's determination regarding any conflict of interest shall be final.

## 29. DEFINITIONS

As used in sections 23 to 28 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 inquiry made by any federal, state or local criminal prosecuting agency and any inquiry 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 investigation for employment, or federal, state or local inquiries into tax returns.

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

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

30. The entire agreement between the parties is contained herein and no change in or modification, termination or discharge of this Agreement in any form whatsoever shall be valid or enforceable unless it is in writing and signed by the party to be charged therewith, or by his duly authorized representative, provided, however, that termination in the manner hereinbefore expressly provided shall be effective as so provided.

31. 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.

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

FIRM NAME

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DATE

33. 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.

Sincerely,

THE PORT AUTHORITY OF  
NEW YORK AND NEW JERSEY

\_\_\_\_\_  
Lillian D. Valenti  
Chief Procurement Officer

Date \_\_\_\_\_

ACCEPTED:

FIRM NAME

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

Print Name: \_\_\_\_\_

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 "33" to "34" and insert a new Paragraph "33" as follows:

33. 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.

**ATTACHMENT B**

**REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF  
EXPERT PROFESSIONAL BROKER SERVICES FOR FIDELITY AND CRIME  
INSURANCE PLACEMENT PROGRAM (2016 THROUGH 2019) (RFP #45177)**

**AGREEMENT ON TERMS OF DISCUSSION**

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

Any information (including information contained in any proposal, vendor qualification(s), ideas, models, drawings, or other material communicated or exhibited by us or on our behalf) provided in connection with this procurement is subject to the provisions of the Port Authority Freedom of Information Code and Procedure adopted by the Port Authority's Board of Commissioners on October 22, 2014, which may be found on the Port Authority website at: <http://www.panynj.gov/corporate-information/pdf/foi-code.pdf>. The foregoing applies to any information, whether or not given at the invitation of the Authority.

\_\_\_\_\_  
(Company)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

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DO NOT RETYPE.

**ATTACHMENT C**  
**COMPANY PROFILE**

**REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF  
EXPERT PROFESSIONAL BROKER SERVICES FOR FIDELITY AND CRIME  
INSURANCE PLACEMENT PROGRAM (2016 THROUGH 2019) (RFP #45177)**

1. Company Legal Name (print or type):

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

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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):

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9. Officer or Principal of Firm and Title:

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

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

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

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

**ATTACHMENT D**

**COST PROPOSAL FORM**

**PERFORMANCE OF EXPERT PROFESSIONAL BROKERAGE SERVICES  
FOR FIDELITY AND CRIME INSURANCE PLACEMENT PROGRAM**

<b><u>PROGRAM</u></b>	<b><u>CONTRACT YEAR</u></b>	<b><u>ANNUAL FEE</u></b>
Fidelity + Crime Insurance Placement	Base Term – Year One (April 1, 2016 through April 1, 2017)	\$ _____ (premium) _____ % Commission
Fidelity + Crime Insurance Placement	Base Term – Year Two (April 1, 2017 through April 1, 2018)	\$ _____ (premium) _____ % Commission
Fidelity + Crime Insurance Placement	Base Term – Year Three (April 1, 2018 through April 1, 2019)	\$ _____ (premium) _____ % Commission
Total Proposed Fee: (3-year Base Term)		\$ _____
Fidelity + Crime Insurance Placement	Renewal Option Term – Year One - (April 1, 2019 through April 1, 2020)	\$ _____ (premium) _____ % Commission