October 23, 2017

SUBJECT: REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL PROGRAM AND PROJECT MANAGEMENT SERVICES FOR THE PORT AUTHORITY BUS TERMINAL REPLACEMENT PROGRAM ON AN “AS-NEEDED” BASIS (RFP#51326)

Dear Sir or Madam:

The Port Authority of New York and New Jersey (“the Authority”) is seeking proposals in response to this Request for Proposals (RFP) from prospective consultants (also “you,” “Firm” and “Proposer”) for the performance of expert professional architectural and engineering services for the Port Authority Bus Terminal Replacement Program.

The scope of the services to be performed by the Consultant are set forth in Attachment A, included herewith. You should carefully review this Agreement as it is the form of agreement that the Authority intends that you sign in the event of acceptance of your Proposal and forms the basis for the submission of your Proposal.

Services to be performed by the selected Consultant may be funded in whole or in part through an operating administration of the U.S. Department of Transportation. If federal funding is provided, then federally mandated terms and conditions are required as part of the subject Agreement and are applicable solely for the performance of the services as described in Attachment A. (See Exhibit I, Federal Transit Administration Contract Provisions, for the required clauses.)

Performance of said services (by any firm) would give rise to the existence of a conflict of interest if the selected firm were to perform, at the same time, any other services required for the Bus Terminal Replacement Program during. Therefore, if the Authority selects your firm for performance of the subject services, your firm shall be expressly precluded from proposing on, participation in, or the performance of, other Bus Terminal Replacement Program contracting opportunities, until conclusion of the services under this Agreement. While the Port Authority does not presently contemplate precluding sub-consultants from participation on multiple Bus Terminal Replacement projects, that decision will be made on a case-by-case basis.

I. PROPOSER REQUIREMENTS

The Port Authority will consider only those firms who are able to demonstrate compliance with the following prerequisite qualification requirements:

1. Successfully completed two (2) projects involving similar scopes of work within the past ten (10) years, with each project having a construction value similar to those contemplated in the RFP’s scope of work (Attachment A);
2. Have a minimum of ten (10) years’ experience in providing Project Management services similar to those contemplated in the RFP’s scope of work (Attachment A); and

3. Lead Project Manager(s) must have completed one (1) project with a scope of work similar to those contemplated in the RFP’s scope of work (Attachment A).

Complete the appropriate Attachment H to document each Proposer Requirement above.

II. PROPOSAL FORMAT REQUIREMENTS

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

B. To be acceptable, the Proposal shall be no more than 60 pages-single-sided, or 30 pages double-sided, using 12 point or greater font size. The page limit excludes resumes and tab dividers and pertains only to Letters F, G, and H, in Section III below. Each resume shall be two-page maximum, single-sided or one-page double-sided, using 12 point or greater font size. The Proposal pages shall be numbered and bound, with “Your Firm Name,” and RFP#51326 clearly indicated on the cover.

C. Proposals must be delivered in sealed envelopes or packages. Address the Proposal to: The Port Authority of New York and New Jersey, 4 World Trade Center, 150 Greenwich Street, New York, NY 10007, Attention: RFP Custodian. Do not address your Proposal to any other name. You are required to submit one (1) reproducible original and ten (10) copies, along with ten (10) copies of your Proposal on CD for review. In case of conflict, the reproducible original of the Proposal shall take precedence over material on the CD.

D. In each submission to the Authority, including any return address label, information on the CD, and information on the reproducible original and copies of the Proposal, the Proposer shall use its full name without abbreviations. Failure to comply with this requirement may lead to delays in contract award and contract payments, which shall be the responsibility of the Proposer.

E. Your proposal should be forwarded in sufficient time so that the Authority receives it no later than 2:00 p.m. on December 4, 2017. The outermost cover of your submittal must be labeled to include the RFP Number and title as indicated in the “Subject” above. The Authority assumes no responsibility for delays caused by any delivery services.

   The Authority will not accept a Proposal submitted via email or fax.

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

III. PROPOSAL SUBMISSION REQUIREMENTS

To respond to this RFP, provide the following information:

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

B. Complete a copy of Attachment C (Company Profile).
C. Demonstrate your compliance with the prerequisite requirements listed in “Proposer Requirements” as noted in Section I. Complete the appropriate Attachment H to document each Proposer Requirement above.

D. Include a statement indicating whether the Consultant is proposing as a single entity, or as a joint venture. If a joint venture submits a proposal, all participants in the joint venture shall be bound jointly and severally and each participant shall execute the proposal. If a single entity proposer cannot demonstrate that it meets all of the referenced qualifications, then the single entity proposer may, with others, form a joint venture and request that the joint venture be deemed to be the Proposer (i.e. members of the joint venture may meet the qualification requirement collectively). If the Proposer is a joint venture, the joint venture’s Proposal shall contain an executed teaming agreement, or alternatively, if the entities making up the joint venture proposer have not executed a teaming agreement, the joint venture’s proposal shall contain a summary of key terms of the anticipated agreement. If the joint venture proposer is a consortium, partnership or any other form of a joint venture, or an association that is not a legal entity, the proposal shall include a letter signed by each member indicating a willingness to accept joint and several liability.

E. Staff Qualifications and Experience
   1. List the names, titles and provide resumes of key personnel, including sub-consultants, if any, who will be assigned to perform the required services. Detail the experience of key individuals to be responsible for the successful completion of the proposed Scope of Services. Resumes of each individual must include their education, chronological history of employment, relevant licenses and certifications. The resumes should clearly identify the years of experience and technical capabilities in the field related to the tasks for which the individual will be responsible.

   2. Prepare an organizational chart that identifies the key individuals who will be assigned to perform the tasks requested in Attachment A, their firm and office addresses, functions, task responsibilities and reporting relationships.

   3. Include a profile of persons identified in the organizational chart that describes how their experience and technical capabilities will assist in the successful completion of the proposed project.

   4. Provide a profile for the proposed Project Manager that demonstrates that said individual has the necessary experience to complete the services outlined in the Attachment A.

   5. Identify main projects the proposed Project Manager has managed in the past five (5) years. Include the percentage of time the individual will dedicate to this project as well as other projects, if any.

   6. Identify subcontractors, if any, and indicate their experience and qualifications.

F. Firm Qualifications and Experience
   In a concise and narrative form, demonstrate your firm’s specific relevant experience in the performance of services similar to those contemplated in Attachment A. For all projects referenced, the services must have been performed, or are currently being performed, by the Proposer within the last five (5) years. The information outlining the services performed or currently being performed shall include:
1. Description of services provided by your firm;
2. Start and end dates of services performed;
3. Contract value (total value of services performed by you);
4. Indicate whether said projects were completed on schedule and within budget;
5. Hiring entity and contact person (name, title, phone number, email address);
6. The annual staff hours of full and part time labor expended in the performance of the contract;
7. A summary of the types of work performed; and
8. Representative familiar with the work that the Port Authority may contact.

G. Technical Approach

A detailed description of the proposed technical approach to be taken for the performance of the required services for each task, including optional tasks, in Attachment A, and a schedule for completion of these tasks. Factors addressed in your technical approach shall include, but are not limited to, your proposed methodology and strategy for performing the services in Attachment A. As part of your technical approach, prepare a staffing analysis for performance of each task in Attachment A, using the Excel spreadsheet in the following link: Attachment E (Staffing Analysis Sheet). Include names and titles of the individuals proposed to perform each of the tasks identified as well as the number of hours required to complete each task.

H. Management Approach

A detailed description of the proposed management approach for performance of the required services. Factors addressed in your management approach shall include, but are not limited to: your proposed organizational structure for delivery of the contemplated services; your proposed approach to ensuring the quality and timeliness of the required work products; and your proposed approach to keeping the Authority apprised of the project status. If the various completion dates contained in Attachment A cannot be adhered to, you may submit revised dates. However, the fact that you were not able to adhere to the original dates and the extent of the revised dates will be included among the factors that the Authority will consider in evaluating Proposals.

Indicate how you will assure commitment to the Program of these key personnel and your plan for providing equally qualified personnel in the event a key person becomes unavailable during the progress of the work. Notwithstanding the aforementioned required plan, it is expected that key personnel submitted under this RFP will be committed to this assignment for its duration. The Consultant shall not remove or replace its Program Director, Project Manager or any other key personnel, as identified by the Authority, without the written consent of the Authority and the Authority will not consent until the Consultant has proffered a candidate with equal credentials to that of the previous key person, acceptable to the Authority.

I. DBE Participation

Your attention is directed to Paragraph 24 of the Agreement in which the Authority has stated the goals for DBE participation in this project. Provide your DBE Participation Plan
by completing Appendix A2 of Attachment D, which shall briefly contain, at minimum, the following:

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

2. Level of Participation: Indicate the percentage of DBE participation expected to be achieved with the arrangement described in the Plan.

3. Describe the specific scope of work the DBE(s) will perform.

4. Previous DBE Participation: Describe any previous or current DBE participation that the Proposer has utilized in the performance of similar services.

5. Include Appendix A2 of Attachment D in the sealed envelope mentioned in Paragraph J. below.

J. Pricing and Compensation Proposal - In a sealed envelope labeled “Pricing and Compensation Proposal”, complete Attachment F, which is accessible in Excel format via the following link: Attachment F – Pricing and Compensation Proposal.

1. The Consultant’s Fixed Fee, in accordance with Section 9.A of the attached Port Authority Standard Agreement (Exhibit II).

2. Direct Personnel Costs, in accordance with Section 9.B of the attached Port Authority Standard Agreement (Exhibit II). For each billing rate, set forth a breakdown showing salaries and fringe benefits, overhead, profit, and any other component (e.g., vacation, holiday, sick pay, worker's compensation, office rent, insurance, etc.).

3. Overhead Rate, in accordance with Section 9.C of the attached Port Authority Standard Agreement (Exhibit II). Proposer must provide their most recent certified audited overhead statement and approval/acceptance of the firm’s proposed overhead rate by a cognizant agency.

4. Cost of Subconsultants, in accordance with Section 9.D of the attached Port Authority Standard Agreement (Exhibit II). An hourly rate schedule itemized by name, for each job title, experience and estimated hours to perform the defined scope for each job title.

5. An itemized list of all Reimbursable Expenses, in accordance with Section 9.E of the attached Port Authority Standard Agreement (Exhibit II).

6. You are required to submit one (1) reproducible original and ten (10) copies, along with ten (10) copies on CD, of Attachment F for review.

K. A complete list of your firm’s affiliates.

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

M. The Proposer is expected to agree with the Port Authority Standard Agreement (Exhibit II) and its terms and conditions. You should therefore not make any changes in this
Agreement, nor restate any of its provisions in your Proposal or supporting material. However, if the Proposer has any specific exceptions, such exceptions should be set forth in a separate letter included with its response to this RFP. The Authority is under no obligation to entertain or accept any such specific exceptions. Exceptions raised at a time subsequent to proposal submission will not be accepted.

**IV. ORAL PRESENTATIONS:**

After review of all proposal submissions, an oral presentation to the selection committee and others, as appropriate, may be requested. It should be noted that firms selected to make presentations may be given brief advance notice. The presentation should be limited to 60 minutes and should include the material contained in your proposal. The presentation will be followed by an approximately 30-minute question and answer session. Proposer’s staff providing the presentation shall be led by the proposed Project Manager, who may be supported by no more than five (5) other senior staff members who are also proposed to work on this project.

**V. SELECTION PROCESS**

The Consultant will be selected through a qualifications-based selection (QBS) method. The QBS will take into consideration the following technical criteria, listed in order of importance, and subsequently cost, as appropriate. After consideration of these factors, the Authority may enter into negotiations with the firm(s) deemed best qualified, in terms of the foregoing technical criteria, to perform the required services. The Authority’s technical criteria are:

- **A.** Staff qualifications and experience of the proposed staff;
- **B.** Firm qualifications and experience of the firm, including the quality of similar services provided to others, and the demonstrated ability to complete the services in accordance with the project schedule;
- **C.** Technical approach to performance of the contemplated services; and
- **D.** Management approach for the performance of the contemplated services

**VI. ADDITIONAL INFORMATION**

Proposers are advised that additional vendor information, including, but not limited to, forms, documents and other related information, may be found on the Authority website at [http://www.panynj.gov/business-opportunities/become-vendor.html](http://www.panynj.gov/business-opportunities/become-vendor.html), and to monitor [http://www.panynj.gov/business-opportunities/bid-proposal-advertisements.html?tabnum=6](http://www.panynj.gov/business-opportunities/bid-proposal-advertisements.html?tabnum=6) 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.” By submitting a Proposal, the Consultant shall be deemed to have made the certifications contained therein unless said Consultant submits a statement with its Proposal explaining why any such certification(s) cannot be made. Such a submission shall be submitted in a separate envelope along with your Proposal, clearly marked “CERTIFICATION STATEMENT.”

It is Authority policy that its 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.

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

Should you have any questions, please contact Ms. Jessica Smith, Solicitation Manager, by email at jlsmith@panynj.gov. All such correspondence must have your name, title, company, mailing address, telephone number and state “RFP #51326” in the subject line. The Authority must receive all questions no later than 2:00 P.M., fourteen (14) calendar days before the RFP due date. Neither Ms. Smith nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or to give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate.

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

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

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

VII. BACKGROUND QUALIFICATIONS QUESTIONNAIRE (BQQ)

The Proposer shall submit a completed Background Qualifications Questionnaire (BQQ) no later than two (2) weeks before the RFP due date, as required for all consultants, sub-consultants, contractors and vendors providing services under federal grant programs. This document and instructions for submitting the completed BQQ to the Authority’s Office of Inspector General can be obtained at the Authority’s website through the following link:

http://www.panynj.gov/inspector-general/inspector-general-programs.html

A BQQ must also be submitted for any subcontractor, sub-consultant or vendor the Proposer, at the time of proposal submission, has contracted to perform any of the work under Attachment A.

Sincerely,

Joann Spirito
Manager, Federal Procurement & Compliance
Procurement Department
Attachment A: Scope of Services
Attachment B: Agreement on Terms of Discussion
Attachment C: Company Profile
Attachment D: Disadvantaged Business Enterprise (DBE) Program
Attachment E: Staffing Analysis Sheet
Attachment F: Pricing and Compensation
Attachment G: Insurance Requirements
Attachment H: Proposer Requirements

Exhibit II: Port Authority Standard Agreement
ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL PROGRAM AND PROJECT MANAGEMENT SERVICES FOR THE PORT AUTHORITY BUS TERMINAL REPLACEMENT PROGRAM ON AN “AS-NEEDED” BASIS

I. BACKGROUND

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

The Authority, under the Port Authority Bus Terminal Replacement Program (PABTRP), is proposing to replace the Port Authority Bus Terminal (PABT) located on the West Side of Manhattan between West 40th and 42nd Streets and 8th and 9th Avenues. The project will comply with the applicable local, state, & federal requirements including the National Environmental Policy Act (NEPA). The Authority anticipates that an Environmental Impact Statement (EIS) will be produced in coordination with the federal Lead Agency (herein referred to as the Lead Agency).

The PABT is an essential facility in the regional transportation network. It has enabled bus transportation to serve as the leading mode of travel across the Hudson River to and from the Manhattan Central Business District as an intermodal hub with direct connections to the Lincoln Tunnel and the city’s subway system. The many and varied interstate bus services rely on an interconnected infrastructure comprised of the contra-flow Exclusive Bus Lane on NJ Route 495, direct ramps and street-level connections between the Lincoln Tunnel and the PABT, and configurable highways and local roadways for handling Lincoln Tunnel and PABT traffic. The PABT also is the primary facility for longer-distance intercity bus service, providing customer facilities and an affordable option for travelers between the metropolitan area and many destinations in the continental United States and Canada, as well as direct bus service to the region’s major airports.

In addition, the PABT adjoins 12 subway lines and five (5) New York City Transit (NYCT) bus routes, and offers convenient pedestrian access to Manhattan’s densest employment, residential, and entertainment, locations—including the Midtown office concentrations, the Hudson Yards development district, the Theater District, and shopping and entertainment centers.

Currently, the PABT is operating at capacity during peak periods, with 260,000 weekday trips to and from Midtown Manhattan in 2015 and weekday bus passenger volume projected to increase to as many as 337,000 per day by 2040. In addition, the PABT facility is functionally and operationally inadequate and outdated based on current bus size and weight standards, Americans with Disabilities Act (ADA) requirements, and lack of adequate flexibility and capacity to support forecast growth in bus demand. Design and performance criteria for the replacement terminal are intended to improve service quality and operational efficiency of the trans-Hudson transit network while promoting public transportation, increasing transit system reliability, and regional economic sustainability in the corridor connecting New Jersey to Midtown Manhattan by modernizing infrastructure and systems, and ensuring adequate capacity to meet existing and future travel
demand. Moreover, key structural slabs supporting bus operations are over 60 years old and in need of full-depth replacement. Other systems such as Mechanical, Electrical, Plumbing and Life Safety are also in need of major capital investments.

Growing travel demand combined with aging infrastructure and systems, increasing structural and functional obsolescence, and fundamental capacity shortfalls, have created undesirable levels of quality of service to bus passengers in the region, as well as increased bus operations on New York City streets, warranting a need for replacement.

Since 2013, the Authority has conducted a series of conceptual planning exercises and strategies for the PABT replacement and supporting bus storage and staging facilities to inform the agency’s intended financial portfolio planning, budget and Capital Plan. These pre-planning exercises, which are not considered exhaustive, are provided in Section V for reference. It is anticipated that an EIS will be necessary and all planning efforts will comply with NEPA requirements and any other applicable federal, state and local review processes. The replacement project will consider, amongst other things, economic vitality, mobility, land use availability, efficiency, neighborhood impacts and whether other facilities and transit modes can relieve demand pressure on the bus terminal in the time frame for replacing the bus terminal.

The Authority is committed to ongoing stakeholder engagement and receiving meaningful public input on this critical project.

Services to be performed by the selected Consultant may be funded in whole or in part by an agency under the U.S. Department of Transportation.

II. SCOPE OF WORK

The services of the Consultant under this Agreement shall generally consist of providing expert professional program and project management, and related support services, for the Program during its planning, design and construction phases currently anticipated through 2030. The Authority is retaining expert professional services to conduct an environmental review for the PABTRP under a separate solicitation.

The Consultant shall validate and expand upon prior studies to ensure a sound understanding of the Program to date and develop a practicable plan to move forward. The Consultant shall be responsible for all disciplines required to complete the scope of work, and ensure all efforts are in compliance with federal funding and NEPA guidelines.

The Program Management Support Services shall include but are not limited to: program and project management support; management of multi-disciplined professional and technical staff; documentation and reporting; program and project level scheduling and resource allocation analysis, program status and progress monitoring, budgeting, cost analysis and project controls.

In particular, for program components with federal funding, the Consultant shall develop and provide reports and other information regarding project narratives, financial status reports, and milestone progress reports compliant with Lead Agency requirements and for their oversight and review.

The design and construction of the PABTRP is a complex undertaking requiring experienced and creative professionals skilled in a variety of disciplines. More specifically, the Consultant shall support the Authority with managerial, technical, clerical and administrative staff as required. The
Consultant shall also be required to utilize existing Authority software programs currently employed to monitor program schedules, the allocation of resources, document control program, storage or share site.

The services of the Consultant shall incorporate providing management and support services for the following program components outlined below, consistent with and supporting the progression of the environmental process and applicable federal, state and local requirements.

- The Main Bus Terminal to accommodate the year 2040 forecasted bus passenger demand growth, including new elements, existing elements to be modified, and any temporary structures necessary to maintain operations and intermodal connectivity during construction.
- The approach and departures ramp system and adjacent tie-ins to the Lincoln Tunnel, and NJ Route 495 corridor including modifications to the existing ramps where required.
- Bus Staging and Storage Facilities, if applicable.
- Demolition, removal and/or re-purposing (if applicable) of existing Bus Terminal.
- Construction and environmental impacts.
- Development of staging and phasing plans.
- Project management services during PABTRP planning, design and post-award phases.
- Recommendations for project delivery methodology to inform planning approach (scope of work, terms and conditions, funding opportunities).
- Risk assessment and allocation recommendations; assistance in preparation of any additional pre-construction solicitation documents, all as required by the Authority.
- Coordination with stakeholders both internal and external to the Authority, including but not limited to other consultants, local and federal agencies, Utilities, the Design Manager and, the Construction Manager, as required.

The Consultant shall be responsible for Project Management Services of all project components. The Authority reserves the right to perform any of the services with its own staff or other consultants, as it deems appropriate and as directed by the Authority’s Program Manager.

The anticipated duration to complete the EIS is approximately 24-36 months from the effective date of Notice to Proceed (NTP), subject to change based on latest understanding of PABTRP schedule. Tasks and/or Subtasks (e.g., Optional Tasks #1 and #2 below) which evaluate or further develop the selected or preferred alternative shall follow in a timely manner as early action items. In addition, services rendered by the Consultant shall be phased such that Tasks and/or Subtasks which support the coordination with the public and external stakeholders are to be progressed as early action items and continue throughout the duration of the agreement.
Contract Phasing

Consultant work products shall be accomplished in three (3) contract scope phases to synchronize the Authority’s Board cycle with all other PABTRP activities including the NEPA process, and any other identified federal, state and local review processes, as outlined below.

As such, the Consultant shall enter into a base agreement (Base Scope below) to support the Environmental & PE consultant in completing a Draft Environmental Impact Statement (DEIS) document. At the Authority’s discretion, the Consultant may be required to enter into two (2) optional Tasks to support the Preliminary Design Phase with development of a preferred alternative and any additional environmental services in support of federal, state, local review processes on an “as-needed” basis to complete an EIS and obtain Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) or (FONSI) (Optional Task #1 below); and during Final Design services and Post Contract Award Design services (Optional Task #2 below). Detailed description of these tasks to accomplish these stages of work is described in Section III. When expressly authorized by the Authority, in writing, the Consultant shall provide the following services, as-needed:

- **Base Scope: (Section III, TASKS A to G) (Design Services to DEIS)**
  - Provide, in coordination with the Authority’s Environmental & PE consultant, a detailed project management plan and relevant materials towards the completion of a DEIS, including but not limited to coordination with the Financial consultant to ensure that work products meet guidelines for identified federal, state and local funding and financing sources.
  - In conjunction with the Environmental & PE consultant, assist in managing coordination activities related to development of conceptual design of the alternatives to a comparable level to adequately assess impacts, review of DEIS, and supplemental DEIS and any other information and documentation required by federal, state and local regulatory processes.

- **Optional Task #1: (Section III, TASKS A to H) (Preliminary Design Services to FEIS)**
  Task to begin when expressly authorized by the Authority in writing:
  - Provide project management services including schedule and submissions information and requested input to the Environmental & PE consultant to complete the Final Environmental Impact Statement (FEIS) and publication of a Record of Decision (ROD) in the Federal Register.
  - Assist in managing the Environmental & PE consultant staff to facilitate coordination activities related to development of the preferred alternative through completion of Preliminary Design (30% level of total final design completion).
  - Develop and initiate preliminary procurement schedule, strategy and all relevant protocols to remain federally compliant for identified or anticipated federal, state or local funding opportunities and update as necessary.
Optional Task #2: (Section III TASKS A to H) (Final Design and Post Award Services)

Task to begin when expressly authorized by the Authority in writing:

- Provide project management and support services to fully develop the Program to final contract documents, through the contract bidding phase, and throughout the construction phase, and to final contract closeout.

Note for Optional Task #2: The Authority has determined that performance of said services (by any firm) would give rise to the existence of a conflict of interest if the selected firm were to perform any other services, as required under the PABTRP. Therefore, if the Authority selects your firm for performance of the subject services, your firm shall be expressly precluded from participation in, or the performance of, other PABTRP contracting opportunities.

Prior to the performance of any task, the Consultant shall submit a Quality Control/Quality Assurance Program for the professional Program Management services to be performed for this Program.

Unless directed otherwise, all reports shall be in Digital and Letter (8.5”x11”) or Tabloid (11”x17”) bounded format with appropriate color printing, as required. Submission of Tasks may be submitted in non-sequential order pending agreed upon schedule.

III. DESCRIPTION OF THE CONSULTANT'S TASKS

Upon authorization from the Authority to proceed with the performance of services hereunder, the Consultant shall submit a schedule (subject to the approval of the Authority) for performance of services consistent with the milestones contained in Section IV below. Said schedule shall identify all required meetings and submissions.

Those Tasks identified as TASKS A through H shall be considered part of the Consultant’s tasks during the Base Scope, as well as during Optional Tasks #1 and 2, as required throughout the Program’s development and completion.

TASK A: DOCUMENT REVIEW

1. Review studies and reports previously completed for and in support of the Program, as listed in Section V, and provide a draft summary of your findings, such as adequacy of work completed and changes since date of report delivery. Meet with Authority staff and others as required to discuss your findings and resubmit your findings as final.

2. Refine the Program's Purpose and Need Statement (P&N Statement) in coordination with the Environmental & PE consultant.

TASK B: PROGRAM MANAGEMENT AND THE PROJECT MANAGEMENT PLAN

1. Establish the Project Management Plan (PMP) for the Program. The PMP shall be the primary source of information for how the project will be planned, executed, monitored, controlled, and closed out. In accordance with industry standards, the PMP shall include, but not be limited to plans for the following items:

   a. Document Control System
   b. Scope Management
c. Schedule Management  
d. Cost Management  
e. Requirements Management  
f. Quality Management  
g. Human Resource Management  
h. Risk Management  
i. Communications Management (Internal & External)  
j. Stakeholder Management  
k. Compliance Management  
l. Change Management  
m. Procurement Management  
n. Project Fraud Prevention  

2. Provide Program Management support services, such as value engineering.  

3. Assist in the preparation of bid documents, as well as Request for Proposals documents for the retention of expert professional technical and/or advisory services, as required.  

4. Assist the Authority in developing, managing and facilitating a “Best Practices Forum” with industry experts. The Forum shall inform the Authority in developing the program regarding:  
   a) Current Design Innovations.  
   b) Project Delivery Methods, including pros and cons and risks of each.  
   c) Funding and Financing sources and options.  
   d) Contract Packaging strategies.  
   e) Procurement recommendations.  
   f) Construction Technologies.  

5. Monitor and track the preparation and delivery of contract documents, as required.  

6. Obtain and manage a library of all utility reports and drawings for the Program area.  

7. Develop the Program scope and budget for various stages and related contracting strategies, including all aspects of Construction Staging, ensuring work is consistent with Port Authority’s Sustainability Guidelines (referenced in Section V).  

8. Develop work breakdown structures to prepare and monitor program budgets and schedules. Develop and maintain a program level Master Plan Document and Master schedule to integrate all program activities, incorporate input from individual, detailed design and construction schedules provided by others for each program component, and provide roll-ups into a summary schedule. Monitor design and construction progress against adopted program schedules. Identify when remedial steps may be necessary to ensure program schedules adherence.  

9. Comply with and prepare documentation for the Authority’s Gate Review Process and other project plan approvals as required.  

10. Submit and maintain a Program schedule for performance of the services stipulated
The schedule shall identify all required meetings and deliverables and allow for incorporation of Authority comments, as required. The Program Schedule shall contain a minimum of the following elements:

a. All planning, preliminary and final design and construction phase activities.

b. Agency Coordination:
   1) All Authority Departments, as appropriate
   2) External stakeholders
      • United States Department of Transportation Lead Agency, and cooperating agencies, including its subsidiaries (i.e., Federal Transit Administration, Federal Highway Administration, etc.)
      • United States Environmental Protection Agency
      • NYC agencies including NYC DOT and NYC DEP
      • Utilities (Con Edison, Empire City Subway, Verizon, etc.)

11. Provide oversight of the Project Management services as required during all phases of the program.

12. Prepare, update, and maintain an overall project implementation plan reflecting specific project design and construction parameters, consistent with NEPA and environmental documents and approvals, environmental performance commitments, legal agreements, Authority and Lead Agency policies, and other project requirements as these are developed.

13. The Consultant and staff shall perform their services at MCP offices, at other offices located in Midtown Manhattan, or at locations as directed by the Authority’s Representative.

14. The Consultant shall serve as an extension of the Project’s Program Management staff in all functions as directed by the Authority’s Representative.

**TASK C: PROJECT MANAGEMENT SERVICES**

1. Provide project management and technical support services, as required.

2. Support services shall include but not be limited to:
   a. Maintain, implement and update the PMP.
   b. Provide Document Control including storing, tracking and expediting the submittal and shop drawing review process through the use of a software program approved by the Authority.
   c. Conduct or participate in project kick-off and weekly progress meetings with the project team, including all Authority Consultants for the Program, and record all minutes of meetings.
   d. Provide Project Control functions including, but not limited to, schedule and financial tracking through the use of a software program approved by the Authority. The Consultant shall prepare a monthly project controls report reflecting the original projects' scopes, budgets and schedules to advise the project management staff on overall project progress, achieved deliverables, completed tasks, identify variances and recommend corrective actions where progress or cost overruns are anticipated.
e. Maintain a centralized document tracking and control system for collection and
distribution for all correspondence, drawings, submittals, contract documents, operating
manuals and a resource library of relevant and useful technical information on the
various Program and project elements. The Document Control system shall facilitate the
storage and timely retrieval of this documentation. The Consultant shall be responsible
for identifying, categorizing and organizing all documents, and maintaining an on-site
technical resource library. The Consultant shall also be responsible for protecting
Authority Sensitive/Confidential information received and/or generated in any form:
drawings, specifications, correspondence, manuals, etc. Protection standards shall be
provided by the Authority to the selected respondent. Original copies of correspondence
are initially maintained. After a period of one year from NTP, documents are archived
off-site, by others, at an Authority designated location for shared access to retrieve and
review. The Consultant shall be responsible for maintaining on-site copies of all
documentation, as well as overseeing the transport of documents for off-site archiving to
the specified repository within the Port District. As part of the Document Control
function, the Consultant shall also coordinate with Authority's departments as necessary
to facilitate the review, coordination, and control of contractor submittals.

f. Provide Project estimating and scheduling services, as required. Conduct cost estimate
reviews to ensure quality of cost estimates as well as the preparation of cost estimates
for independent design studies and/or evaluations.

g. Develop and implement a process to conduct quantitative risk analysis of project cost
and schedules. This involves risk based budgeting analysis of engineering and
construction costs. As part of the quality control process, at 50% and 100% levels of
each phase of design, conduct feasibility, constructability, staging, scheduling and
operational reviews for each project and ensure that any comments can be readily
incorporated into final documents.

h. Provide Program Support services, including but not limited to drafting documents,
assisting with contract negotiations, and providing various contract administration
functions in accordance with federal guidelines and Authority standards, as needed.

i. Establish and implement a document tracking and distribution process for all
correspondence and documents developed for the projects. Using Primavera
Expedition software, or other software approved by the Authority, administer the
project's submittals and request for information process.

j. Assist the Authority in identifying Program/Project level staffing resource
requirements.

k. Assist the Authority in the acquisition of real property required for the
Project. Such assistance may include, but is not limited to, obtaining real
estate appraisals, surveys, maps, diagrams, title searches, examining
remediation costs and assisting in discussions and negotiations with property
owners and with public and private entities. Assistance shall also include identifying and
preparing permit applications for the properties.

l. Assist with the preparation of presentations and in responding to inquiries from
outside entities and the public, as required.

m. Assist with Authority's public participation and outreach efforts, as required.

3. Evaluate and recommend appropriate minority, women, small and disadvantaged business enterprise (M/W/S/DBE) sub-contractor goals and assist in managing the Program's M/W/S/DBE program, including but not limited to working with the Authority's Office of Business Diversity and Civil Rights to conduct outreach activities and other activities that may be required by Title VI of the Civil Rights Act of 1964.

4. Support Authority staff oversight and project management of the Authority’s Program Consultants (i.e. - NEPA, A/E, etc.) in the office within a designated location at one (1) of the Authority facilities.

5. Monitor and report on Authority’s Program Consultants and contractor staff performance, comparing the approved PMP versus the recommended corrective action, when required.

6. Update and review actual and forecasted project costs and integrated project schedule for Environmental and Preliminary Engineering schedules on a monthly basis. Prepare a monthly report for submittal to the Authority.

7. Prepare reports to track and monitor progress of design and construction activities, including documentation of actual and forecasted construction in place (CIP), and schedule versus authorized contract budget and schedule.

8. Prepare monthly status reports addressing accomplishments, issues, and schedule and budget status, including corrective actions, if required.

9. Track third party invoices for adherence to budget and to ensure that invoices are processed in a timely manner.

10. Track scope changes and change orders to ensure that change orders are processed in a timely manner.

11. Brief the Project team, and others as required, on a regular basis as to the status of the program

12. In support of office management and administration, perform secretarial and clerical tasks utilizing Authority systems, as appropriate.

TASK D. PREPARATION OF KEY PRESENTATIONS

Provide support to the Authority in the presentation of key decisions to senior management in a timely manner. For budgeting purposes, anticipate that twenty (20) management briefings, with presentations, will be required with senior management during Base Scope, and will require coordination with Law, Finance, and other executive Authority staff and others as approved by the Authority, and as appropriate. Prepare all supporting documents and presentation materials as necessary. Coordinate and conduct stakeholder outreach as directed by the Authority.

TASK E - MEETINGS AND GENERAL PROJECT TEAM COORDINATION

1. Participate in and lead bi-weekly coordination meetings with internal and external project stakeholders, as required.
2. Support and attend both internal and external meetings, reviews, discussions, conferences, or presentations with Authority staff as required. Attendees may include Authority executive leadership, federal government agency representative(s), municipal government representative(s), utility company representative(s), or others, as approved by the Authority. The Consultant shall arrange for sub consultant participation, as required, and be approved by the Port Authority.

3. Meetings will typically take place at Authority offices. The Authority's MCP offices are currently located at 80 Pine Street, New York, NY. Other primary Authority office locations are located at 4 World Trade Center, New York, NY and at PABT, 625 8th Avenue, New York, NY. (For estimating purposes, assume all meetings will last 4 hours.)

4. Meetings shall occur as noted in this document, or as otherwise required by the Authority. As part of this task, the Consultant shall provide the following services:
   a. Unless otherwise required, prepare draft agenda for all meetings and submit to the Authority for review. Incorporate comments and distribute to meeting members as final no less than one working day in advance of the meetings.
   b. Prepare, and submit draft minutes to the Authority for all meetings at which you attend within two business days of the meeting. Incorporate Authority comments as required and resubmit revised minutes prior to the subsequent meeting.
   c. Schedule and attend monthly status meetings with the Authority, and others (as required and/or approved by the Authority), to review performance, discuss project staffing, and plans for the upcoming quarter.

**TASK F: FEDERAL AGENCY COORDINATION**

1. Support preparation and coordination in conjunction with the Authority’s Environmental & PE consultant and Authority staff for all meetings with the Lead Agency, and other federal agencies, such as USDOT, FTA, FHWA, and EPA.

2. As required by the Lead Agency or other federal agency requirements, coordinate with the Authority’s Environmental & PE consultant and Financial Advisor Consultants to prepare a detailed Project Definition Statement to assist the Authority with efforts to secure potential federal funding.

3. Working with the Authority’s Financial Advisor Consultant, and the Environmental & PE consultant, who will lead the Federal Agency Coordination effort, participate in meetings with Federal transportation agencies, which may include USDOT, FTA, and the FHWA to receive and coordinate feedback on the Program.

4. Prepare monthly and quarterly reports as may be required by Federal Agencies responsible for administering any grant funds awarded for the Program.

**TASK G: LOCAL AND STATE STAKEHOLDER COORDINATION AND PUBLIC OUTREACH**

1. Prepare required materials and coordinate meetings with local stakeholders—as needed, except those exclusively pertaining to NEPA, which are to be conducted by the Authority’s Environmental & PE consultant.

2. Prepare required materials and participate in meetings with project stakeholders and interested public entities.
3. Preparation shall include the creation of necessary presentations.
4. Meeting minutes shall be provided to the Authority within two business days following any project stakeholder meeting or public meeting.
5. Meetings include those with:
   a. State and local community interest groups and local business improvement districts;
   b. Industry peer groups;
   c. City of New York, Community Boards and respective departments;
   d. NYCDOT, NYCDCP, NYS DOT, NJDOT, NJTransit, NYSDEC, NJDEP, NYCDEP

TASK H. FINAL PROCUREMENT AND CONTRACT DOCUMENTS (OPTIONAL TASK) (AS-NEEDED)

1. Schedule and Submissions
2. Develop and Manage Procurement Schedule
   Prepare and update as appropriate a procurement schedule identifying key activities, and milestones for the procurement of the project. The schedule shall include interfaces, hold points, precedents and key gateways or decision points, and shall be compatible for integration into a master schedule in Primavera P6.
3. Develop Procurement Strategy and Protocols
   a. Working closely with MCP, Procurement, Law, Finance and other Authority Departments and consultants develop a procurement strategy document for the project.
   b. Working with Authority staff establish a project data management system as required to provide solicitation documents securely to potential proposers.
   c. Advise the Authority on procedures and protocols for handling of confidential proposer generated materials and information.
   d. Work closely with Authority staff and others as approved by the Authority, develop or review and update estimates of probable construction, operation and maintenance costs and escalation factors.
   e. Work closely with Authority staff to provide capital, O&M and other estimates in an appropriate format for use in financial models.
   f. Develop, in consultation with Authority staff and others as approved by the Authority, a risk management strategy document. This includes development of an initial project risk register in an appropriate format for use in procurement and recommendations for risk allocations under the consultant agreement.
   g. Maintain and update the outline risk register developed for the project and assist the Authority to develop mitigation strategies for key project risks.
4. Develop and Manage Industry Outreach Strategy
a. Develop marketing strategies as required to assess interest of industry and identify potential proposers and prepare a report documenting said strategy. This shall include working closely with Authority staff and others as approved by the Authority, in preparation of, an industry forum and stakeholder outreach. Deliverables may include: a list of potential Proposers; presentation material for industry forum, and report on market interest and market feedback studies.

5. Requests for Information/Qualifications Support
   a. Participate in interdisciplinary efforts to develop technical-related (design, construction and maintenance) submittal and qualifications requirements for proposers/bidders, key subcontractors and key individuals.
   
b. Coordinate with the Authority's Finance Department regarding the integration of financial and technical criteria.
   
c. Assist in proposer/bidder forum. Develop responses to requests for clarifications (RFC) submitted by bidders/proposers. Prepare and/or review addenda to RFQ.

6. Requests for Proposals Support
   Assist with developing solicitation documents
   a. Assist in preparation of solicitation documents as required, including preparation of a term sheet that would contain sufficient details of the principal contract terms, a statement of work, performance specifications (lifecycle costs, environmental considerations, etc.) performance measure benchmarks and performance penalties/deductions.
   
b. Prepare a draft report identifying the optimum project delivery that incorporates Authority and all other applicable requirements, and that maximizes the potential for innovation within the competitive framework. Incorporate Authority comments as required and resubmit the report as final.
   
c. Assist preparing responses to Request for Clarifications (RFC) questions. Incorporate responses in addenda as part of Contract.
   
d. Assist with preparation for negotiations and conflict resolutions.

7. Assist with obtaining all temporary and final permit to occupy (TPTO and FPTO) permits for all phases of construction until contract closeout.

8. Assist in financial contract closeout, and resolution of punch list work for all project contracts.

IV. SCHEDULE & SUBMISSIONS
   A. Anticipated Program Schedule
      The following project design durations are expected on the Consultant's Tasks as described herein:
1. QA/QC Plan - completed within 1 month after authorization to proceed by the Authority

2. Summary of Findings - completed within 2 months after authorization to proceed by the Authority

3. Project Management Plan - completed within 3 months after authorization to proceed by the Authority (may be concurrent with the Basis of Design Report prepared by the Authority’s Environmental & PE consultant)

4. Project Schedule - completed within 6 months after authorization to proceed by the Authority. Discrete project components may be authorized for Final Design at different times.

5. Total Project Cost and Forecast - completed within 6 months after authorization to proceed by the Authority.

These durations are meant as general timeframes, and may be impacted by progress of other PABT work, as well as the public environmental review process. The Authority currently anticipates the start of construction for the PABTRP in early 2022. Completion of the program is targeted for early 2030.

B. Quality Control/Quality Assurance

1. Submit your specific Quality Control/Quality Assurance Program for the professional services to be performed in connection with the planning, design and construction phases specified herein.

2. Submit a letter to the Authority certifying your compliance with the Quality Control/Quality Assurance Program established by the Consultant, prior to each completion milestone during planning, design and construction phases specified herein.

V. INFORMATION AND MATERIALS PROVIDED BY THE AUTHORITY

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

The documents specified under “B” below were prepared for the subject work and form a part of this Agreement.

All documents in the possession of the Authority will be available to the Consultant for review at the Authority’s offices via appointment during regular business hours. The Authority will make available for the Consultant's information the documents specified below. The Authority makes no representation or guarantee as to, and will not be responsible for, their accuracy,
completeness or pertinence and, in addition, will not be responsible for any conclusions drawn therefrom. They are made available to the Consultant for the purpose of providing such information as is in the possession of the Authority, whether or not such information may be accurate, complete or pertinent, or of any value to the Consultant. All documents in the possession of the Authority will be available to the Consultant for review at the Authority’s offices at either 4 World Trade Center [150 Greenwich Street], New York, New York 10007 or 2 Montgomery Street, Jersey City, New Jersey, Monday through Friday, 9:00am to 3:00pm.

A. Available Documents Include:


5. Attachment A1 - Authority’s Limited English Proficiency (LEP) Plan


B. The documents specified below are available as Reference Documents to the selected Consultant for the performance of the subject work:

1. LT Helix Replacement Feasibility Study Executive Summary, dated November 30, 2012 As-Built plans for existing roadways in the project area.
2. The Authority will make available for the Consultant to review traffic studies and data that pertain to the Lincoln Tunnel, as well as traffic data available from other applicable sources. The last full comprehensive Lincoln Tunnel data collection program was conducted in 2011. Said data include but are not limited to the following: Turning movement counts; Vehicle classification counts; Automatic Traffic Recorder (ATR) data; and Pedestrian counts.
6. Authority Engineering Architectural Design Division Report Templates
7. Authority Engineering Architectural Design Data Collection and Drafting Standards
8. Other information, material, and/or documentation related to the Program will be made available to the Consultant as needed and as appropriate to assist the Consultant with the performance of requested services.
9. New York Best Practice Model Update Task Order
   In Progress
10. Capital Infrastructure Financial and Business Advisory Services
    Task Order in Progress
11. Trans-Hudson Commuting Capacity Study
    September 22, 2016
12. Midtown Bus Master Plan Report
    March 14, 2016
   A. Rebuild-In-Place Structural Task
      Order in progress
B. Rebuild-In-Place Traffic Task
Order in progress

13. Port Authority Bus Terminal International Design + Deliverability
   Competition Board Item October 22, 2015
   Competition Conditions March 11, 2016

14. Profile of the Regional Interstate Transportation Network
   May 7, 2015

15. The PABT Modernization & Capacity Enhancement Program (MCEP) Pre-Stage
   I Report
   December 2012

16. PABT South Wing Comprehensive Physical Assessment
   April 2012

17. West Midtown Properties: Development Analysis
   October 2010

18. West Midtown Bus Parking and Storage Study Final Report and Technical
    Memorandum Constructability Analysis: Galvin and Dyer Plaza Bus Storage
    Facilities
    March 2008

19. No. 7 Secaucus Extension Feasibility Analysis
    April 2013

20. Other information, material, and/or documentation related to the Project will be
    made available to the Consultant as needed and as appropriate to assist the
    Consultant with the performance of requested services.

VI. CONDITIONS AND PRECAUTIONS

A. General
   The Consultant shall immediately inform the Authority of any unsafe condition
   discovered at any time during the course of this work. Vehicular traffic at the PABT
   shall always have priority over any of the Consultant's operations.

B. Work Areas
   The Consultant shall limit his inspection work to the areas necessary for the
   performance of such inspection and shall not interfere with the operation of the existing
   PABT without first obtaining specific approval from the Facility General Manager.
During all periods of time when he is not performing operations at the work site, the Consultant shall store all equipment being used for the inspection in areas designated by the Facility General Manager and shall provide all security required for such equipment.

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

C. Work hours

The Consultant shall perform his work at the existing PABT site between the hours of 7:00 A.M. and 5:00 P.M., Monday through Friday, unless otherwise directed, in writing, by the Authority. In any case, no work shall be performed at the site on a legal holiday of either the State of New York or the State of New Jersey, unless otherwise directed by the Authority.
ATTACHMENT A1

AUTHORITY’S LIMITED ENGLISH PROFICIENCY (LEP) PLAN
Limited English Proficiency (LEP) Plan

Submitted by: The Port Authority of New York and New Jersey
Government and Community Relations
4/1/2015
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INTRODUCTION

The Port Authority of New York and New Jersey's (Port Authority) Government & Community Relations Department (GOCOR) and Office of Business Diversity and Civil Rights (OBDCR) collaborated to develop this Limited English Proficiency (LEP) Plan. The LEP Plan provides Port Authority staff with guidance to effectively apply LEP requirements and ensure nondiscrimination in the delivery of our programs.

To support its development and ensure consistency with the United States Department of Transportation (DOT) implementing guidance, this LEP Plan, which consists of a four-factor analysis and corresponding language assistance services, describes the needs and use of LEP services. Each Port Authority operating department (Aviation, Port Commerce, Port Authority Trans-Hudson Corporation, Tunnels, Bridges and Terminals Departments) assessed its customer demographics and services to determine its department’s customer needs and its LEP responsibilities. The findings were used to compile the information contained in this Plan and are meant to be used as a guide to assist future LEP efforts.

LEP OVERVIEW

As a recipient of Federal Transit Administration (FTA), Federal Highway Administration (FHWA), and Federal Aviation Administration (FAA) funding, the Port Authority, which includes its wholly owned subsidiary, the Port Authority Trans-Hudson Corporation (PATH), takes reasonable steps to ensure compliance with Title VI of the Civil Rights Act of 1964, as amended.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. and its implementing regulations provide, among other things, that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that receives federal financial assistance. The Civil Rights Restoration Act of 1987 provided an interpretation of “program and activity” and defined it as all the operations of a department, agency etc. Furthermore, the Supreme Court, in Lau v. Nichols 414 U.S. 563 (1974), interpreted Title VI regulations promulgated by the former Department of Health, Education, and Welfare to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national origin discrimination.

On August 11, 2000, President Clinton issued Executive Order 13166, entitled “Improving Access to Services for Persons with Limited English Proficiency.” Executive Order 13166, reprinted at 65 FR 50123 (August 16, 2000), directs each federal agency to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services. Federal agencies were instructed to publish guidance for their respective recipients in order to assist them with their obligations to LEP persons under Title VI. The Executive Order, in the Federal Register/Vol. 65, No. 159 (2000), states that “Agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.”

The U.S. Department of Transportation (DOT) published its Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency Persons in Federal Register/Vol. 70, No. 239, pp. 74087-74100, December 14, 2005 (DOT LEP Guidance). The FTA also published additional LEP guidance in its Circular 4702.1B Title VI Requirements
and Guidelines for Federal Transit Administration Recipients. Each of the guidance resources noted above requires recipients to develop an LEP Plan consistent with the provisions of Section VII of the DOT LEP Guidance.

DOT LEP Guidance Section IV in part states “Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be limited English proficient.” Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, or understanding other information provided by federally funded activities and programs.

**LEP Analysis Guidance**

To determine the most effective mix of language assistance and to target resources appropriately, each department that provides transit service to the public must periodically conduct a four-factor analysis to confirm that its current practices are in line with the needs of persons with LEP.

The four-factor analysis involves four steps:

1. The number and proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient.
2. The frequency with which LEP individuals come in contact with the program, activity, or service.
3. The nature and importance of the program, activity, or service provided by the recipients to people’s lives.
4. The resources available to the recipient and their costs.

**Factor 1: Assess the number and proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service.**

DOT LEP Guidance Section V (1), states in part that “The greater the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population, the more likely language services are needed. Ordinarily, persons’ eligible to be served or likely to be directly affected by a recipient’s programs or activities are those who are in fact, served or encountered in the eligible service population. This population will be program-specific, and includes persons who are in the geographic area that is part of the recipient’s service area.”

**Best practices include:**

- Examine Port Authority’s prior experiences with LEP individuals.
- Examine the Port Authority’s Planning and Regional Development Department’s Regional Demographics on enet. This internal resource on the Planning Department’s internal website provides demographic information on the pertinent areas relative to Port Authority facilities.
- If need be, further examine Census/American Community Survey (ACS) data.
- Consult local organizations, community organizations, local governments, and religious organizations.

**Factor 2: Assess the frequency with which LEP individuals come in contact with the program, activity, or service.**

DOT LEP Guidance, Section V (2), states in part that “Recipients should assess, as accurately as possible, the frequency with which they have or should have contact with LEP individuals from different language groups seeking assistance, as the more frequent the contact, the more likely enhanced language services
will be needed. The steps that are reasonable for a recipient that serves an LEP person on a one-time basis will be very different than those expected from a recipient that services LEP persons daily.”

Best practices include:
- Survey or other critical user information gathered.
- Telephone data – Incoming Calls – Customer Service Line usage (for example, how many callers select Spanish). What other languages should be included?
- Website statistics – Where bilingual information is present, how many times was it viewed?
- Collect Customer Service Agents and staff feedback.
- Assess LanguageLine details.
- Assess Survey results.
- Review Customer Service LEP assistance requested and provided.

Factor 3: Assess the nature and importance of the program, activity, or service provided by the agency.

DOT LEP Guidance Section V (3) states that “The more important the activity, information, service or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed.”

Furthermore, DOT LEP Guidance Section V (4) states in part, “Providing public transportation access to LEP persons is crucial. An LEP person’s inability to utilize effectively public transportation may adversely affect his or her ability to obtain health care, education, or access to employment.”

Best practices include:
- Ask yourself – What is vital to LEP persons to access available services?
- Identify vital documents for written translation. Whether or not a document is vital depends on the importance of the program, information, or services involved and the consequence to the LEP person if the information in question is not accurate or timely.

Vital documents may include: intake forms; applications to participate; customer service; complaint forms; permits; tickets of deficiency notices; emergency transportation information; signs in bus and train stations and airports, notices of public hearings or meetings regarding recipients proposed transportation plans, projects, or changes, and reduction, denial or termination of services or benefits; signs in waiting rooms, reception areas or other initial points of entry; notices advising LEP persons of free language assistance or statements about services and the right to free language assistance in appropriate non-English brochures, booklets, outreach and recruitment information; and other materials routinely disseminated to the public.

LEP.gov notes, “For larger documents, translation of vital information contained within the document will suffice and the documents need not be translated in their entirety.”
Factor 4: Assess the resources available to the recipients and the costs.

DOT LEP Guidance Section V (4) states, “Recipients should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns.”

“The following practices may reduce resources and cost issues where appropriate: training bilingual staff to act as interpreters and translators, information sharing through industry groups, telephonic and video conferencing interpretation services, translating vital documents posted on Web sites, pooling resources and standardizing documents to reduce translation needs and using qualified translators and interpreters to ensure that documents need not be ‘fixed’ later and that inaccurate interpretations do not cause delay or other costs, centralizing interpreter and translator services to achieve economies of scale, and a formalized use of qualified community volunteers.”

“The correct mix should be based on what is both necessary and reasonable in light of the four factor analysis.”

Best practices include:
- Outline resources available to provide language assistance and overall costs of providing LEP assistance as identified in the four-factor analysis.
- Utilize the Internal Port Authority Order Number 061214 for expenses related to the Title VI Nondiscrimination Program.
- When appropriate, utilize staff across the agency with language skills to supplement our language services at the first point of contact with an LEP individual or group.

SELECTING LANGUAGE ASSISTANCE SERVICES

Recipients may provide language services in either oral or written form. Quality and accuracy of language services is critical.

ORAL LANGUAGE SERVICES (INTERPRETATION)

Interpretation is the act of listening in one language and orally translating it into another language. It is imperative to rely on competent interpreters who have demonstrated their proficiency in the ability to communicate information accurately in English and another language. Interpreters must adhere to their role without deviating into a role as counselor, legal advisor, or other role. When language assistance is needed and is reasonable, it should be provided in a timely manner. Timely means providing assistance at a time and place that avoids the denial of a service or benefit of a program or activity. Options to satisfy this need include hiring or employing bilingual staff at locations where language assistance needs are most often encountered, hiring staff interpreters, contracting for interpreters, using telephone interpreter lines, or using community volunteers where appropriate.

WRITTEN LANGUAGE SERVICES (TRANSLATION)

Translation is the replacement of a written text from one language into an equivalent written text in another language. Translators should understand the expected reading level of the audience and, where appropriate, have fundamental knowledge of the target language group's vocabulary and phraseology.
What to translate? Examples of materials that may be translated include:

- Emergency transportation information.
- Marking, signs, and packaging for hazardous materials and substances.
- Signs in bus and train stations and in airports.
- Notices of public hearings regarding the Port Authority’s (including PATH’s) proposed transportation plans, projects, or changes, and reduction, denial, or termination of services or benefits.
- Signs in waiting rooms, reception areas, and other initial points of entry.
- Notices advising LEP persons of free language assistance and language identification cards for staff.
- Applications or instructions on how to participate in Port Authority and PATH programs.
- Complaint and consent forms.

Whether or not a document or the information it solicits is “vital” may depend upon the importance of the program, information, or services involved and the consequence to the LEP person if the information in question is not accurate or timely.

Community organizations may help determine what outreach materials are most helpful if translated. Ethnic media, schools, and religious and community organizations may also assist in communicating messages.

SAFE HARBOR PROVISION

Safe Harbor provisions apply to the translation of written documents only. The DOT considers the following as evidence that the recipient has met its obligation.

1. The recipient provides written language translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected by service changes or facility activities; and

2. If there are fewer than 50 persons in a language group that reaches the 5% trigger in 1 above, the recipient does not have to translate vital written materials but must provide notice of the right to receive competent oral interpretation of those written materials, free of costs.

Based on the populations living in proximity to Port Authority facilities and who most frequently utilize the Port Authority’s vast network of aviation and maritime facilities, and transportation terminals and services, vital documents are initially considered for translation into Spanish and Chinese. Further, given limitations on the agency’s resources and that those populations who most often encounter our facilities and utilize our services fall within the aforementioned LEP populations, we do all possible to ensure that these limited resources are fairly allocated where they are likely to provide the most benefit.

Nonetheless, the Port Authority recognizes the presence of languages other than Spanish and Chinese within the service area that fall under the Safe Harbor provision and as such, regularly assesses LEP needs on a project-by-project basis, utilizing demographic analysis gathered from Census bureau statistics. In addition, Port Authority liaisons from the Government & Community Relations department maintain regular communication with local elected officials and community leaders to ensure the needs of impacted, harder to identify, LEP populations are
considered. The Agency makes a concerted effort, leveraging its finite resources, to address individual requests for the translation of vital documents into languages other than Spanish and Chinese, within a reasonable timeframe.

**LANGUAGE ASSISTANCE PLAN**

The Port Authority of New York and New Jersey’s Language Assistance (LEP) Plan summarizes how the Port Authority addresses the identified needs of the Limited English Proficient populations within the region it serves (Port District).

The Port Authority of New York and New Jersey’s Aviation, Tunnels, Bridges and Terminals, Rail Transportation (PATH), and Port Commerce operating departments have a strong understanding of their LEP customer base. Aviation serves an international and diverse regional population. PATH primarily serves residents in local neighboring communities and commuters transferring to PATH stations from other communities within the Northern New Jersey-New York region. The Tunnels, Bridges and Terminals Department (TB&T) serves motorists travelling between New York City and New Jersey utilizing vehicular tunnels and bridges, as well as bus riders to two interstate bus terminals, which serve both local and long-distance travelers. Port Commerce does not provide public transportation; rather, it interfaces with the truck driving population serving marine terminal operators.

In addition to the aforementioned departments, the Port Authority’s Office of Government and Community Relations serves as a valuable resource for elected officials, residents, and community organizations and has dedicated staff that liaises between operating departments and the communities to regularly assess their needs. As such, the Port Authority takes an active role in the communities it serves and forges strong relationships with federal, state, and local government officials as well as among community groups and leaders to help ensure that the needs of the LEP population are effectively addressed.

Overall, based on Census data, surveys, and historical information, the most commonly spoken LEP language in the Port Authority service area and at transportation facilities is overwhelmingly Spanish, followed by Chinese at a distant second. Recognizing that these languages can vary based on a project area, as matters of practice, needs are regularly assessed and an outreach strategy is defined on a project-by-project basis. Once a project area has been established, should additional demographic data analysis indicate that the impacted population includes other LEP populations, efforts will be made to provide outreach to those specific LEP populations accordingly.

**RESULTS OF THE FOUR-FACTOR ANALYSIS**

*Factor 1 Results:*

**Assess the number and proportion of LEP persons served or encountered in the eligible service population**

The Port Authority’s eighteen (18)-county service area within the States of New York and New Jersey include New York, Kings, Queens, Richmond, Bronx, Rockland, Suffolk, Nassau, and Westchester Counties in New York and Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Somerset, and Union Counties in New Jersey. A separate analysis was conducted of the three-county area in which our PATH rail transit service operates and in which the PATH stations are located: New York County in New York and Essex and Hudson County in New Jersey.

County-level data is derived from the U.S. Census Bureau’s American Community Survey, 2008-2012 5-Year Estimates, Tables S1601 and B16001, “Language Spoken at Home” and “Language Spoken at Home by Ability to Speak English” for the population age five years and over. Data presented displays all languages reported, is an
indication of those within the population age five and over, and identifies those who speak a language other than English and those who speak English less than very well. Those populations are displayed as “Limited English Proficiency” populations.

In accordance with the Department of Justice (DOJ), Safe Harbor provision, a minimum of 1,000 persons, or 5% of the geography’s population were used to determine those languages that met the threshold for translation of vital documents.

Port Authority Service Area LEP Table

<table>
<thead>
<tr>
<th>Language</th>
<th>LEP Pop</th>
<th>% LEP</th>
<th>Language</th>
<th>LEP Pop</th>
<th>% LEP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spanish or Spanish Creole</td>
<td>1,623,514</td>
<td>9.66%</td>
<td>Japanese</td>
<td>20,013</td>
<td>0.12%</td>
</tr>
<tr>
<td>Chinese</td>
<td>352,332</td>
<td>2.10%</td>
<td>Other Slavic</td>
<td>15,820</td>
<td>0.09%</td>
</tr>
<tr>
<td>Russian</td>
<td>137,986</td>
<td>0.82%</td>
<td>Hebrew</td>
<td>14,329</td>
<td>0.09%</td>
</tr>
<tr>
<td>Korean</td>
<td>95,173</td>
<td>0.57%</td>
<td>Vietnamese</td>
<td>12,949</td>
<td>0.08%</td>
</tr>
<tr>
<td>French Creole</td>
<td>78,954</td>
<td>0.47%</td>
<td>Persian</td>
<td>12,213</td>
<td>0.07%</td>
</tr>
<tr>
<td>Other Indic</td>
<td>78,641</td>
<td>0.47%</td>
<td>Serbo-Croatian</td>
<td>11,297</td>
<td>0.07%</td>
</tr>
<tr>
<td>Italian</td>
<td>74,051</td>
<td>0.44%</td>
<td>German</td>
<td>8,547</td>
<td>0.05%</td>
</tr>
<tr>
<td>Polish</td>
<td>60,769</td>
<td>0.36%</td>
<td>Hungarian</td>
<td>5,546</td>
<td>0.03%</td>
</tr>
<tr>
<td>Portuguese or Portuguese Creole</td>
<td>51,130</td>
<td>0.30%</td>
<td>Other Pacific Island</td>
<td>5,184</td>
<td>0.03%</td>
</tr>
<tr>
<td>Arabic</td>
<td>46,416</td>
<td>0.28%</td>
<td>Thai</td>
<td>4,829</td>
<td>0.03%</td>
</tr>
<tr>
<td>Other Asian</td>
<td>42,695</td>
<td>0.25%</td>
<td>Other and Unspecified</td>
<td>3,990</td>
<td>0.02%</td>
</tr>
<tr>
<td>Viddish</td>
<td>39,565</td>
<td>0.24%</td>
<td>Armenian</td>
<td>3,579</td>
<td>0.02%</td>
</tr>
<tr>
<td>Tagalog</td>
<td>38,140</td>
<td>0.23%</td>
<td>Mon-Khmer, Cambodian</td>
<td>1,315</td>
<td>0.01%</td>
</tr>
<tr>
<td>French (incl. Patois, Cajun)</td>
<td>34,770</td>
<td>0.21%</td>
<td>Scandinavian</td>
<td>1,274</td>
<td>0.01%</td>
</tr>
<tr>
<td>Gujarati</td>
<td>30,170</td>
<td>0.18%</td>
<td>Other West Germanic Languages</td>
<td>1,114</td>
<td>0.01%</td>
</tr>
<tr>
<td>African languages</td>
<td>29,988</td>
<td>0.18%</td>
<td>Other Native North American</td>
<td>471</td>
<td>0.00%</td>
</tr>
<tr>
<td>Other Indo European</td>
<td>29,656</td>
<td>0.18%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Urdu</td>
<td>29,582</td>
<td>0.18%</td>
<td>Laothian</td>
<td>251</td>
<td>0.00%</td>
</tr>
<tr>
<td>Hindi</td>
<td>25,939</td>
<td>0.15%</td>
<td>Hmong</td>
<td>27</td>
<td>0.00%</td>
</tr>
<tr>
<td>Greek</td>
<td>23,592</td>
<td>0.14%</td>
<td>Navajo</td>
<td>10</td>
<td>0.00%</td>
</tr>
</tbody>
</table>

Source: U.S. Census Bureau, American Community Survey 2008-2012 5 Year Estimates, Table B16001.
Languages under white field met the Limited English Proficiency population threshold.
The data analysis, depicted in the above tables, concludes that the Port Authority Service and PATH Service Area’s regional average of the LEP population is 18.4% and 19.6% respectively. Of this percentage, Spanish or Spanish Creole is overwhelmingly the most dominant LEP language spoken and utilized within the service areas, accounting for 9.66% and 11.51% of the population respectively. By contrast, the second most commonly spoken LEP language, Chinese, constitutes just 2.10% and 1.95% of the PA and PATH service area populations respectively.

Though demographic analysis indicates that many other languages that fall within the Safe Harbor provision are spoken within the designated service areas, additional research concludes that these LEP populations are encountered or utilize Port Authority services with far less frequency in comparison to the aforementioned languages. Recognizing the presence of other languages in our service area as well as the fact that data is not static and populations change, we maintain close contact with community leaders and conduct regular demographic assessments to ensure that LEP populations affected by a project are aware of the information available to them, and we always strive to ensure that LEP services are provided when necessary.

**Factor 2 Results:**

**Assess the frequency with which LEP individuals come in contact with the program, activity, or service.**

Most often, to aid in the determination of the frequency of LEP contacts with Port Authority facilities, customer service surveys, interviews with field personnel and office staff, and review of past language assistance statistics, in addition to regional and service area demographic information, are utilized.

Additionally, individual departments conducted research and regularly collect data. For example, the Aviation Department determined language assistance needs based on the top 27 most spoken languages internationally. This list remains relatively stable and, typically, languages added are not removed. Terminal by Terminal Customer Satisfaction Surveys, conducted by the Aviation Department, were another useful tool to determine eligible LEPs to
be served. Approximately 10,000 arriving and departing passengers were annually canvassed and most recently the questionnaires were provided in English, Spanish, French, German*, Italian, Japanese, Mandarin, and Korean* languages (*added in 2014). The selected languages were based on the languages spoken by a proportion of annual passengers flying on a carrier and the additional development cost to accommodate the foreign language given the proportion of potential users – noting that only a small proportion of our passengers (5% across the region) may have difficulty with English and use the foreign-language survey. Introductory show cards were also presented to prospective respondents and some foreign-language speaking interviews were conducted to help with language barriers. The Rail Transportation Department (PATH) also utilized surveys to garner LEP information in addition to Census data. An Origin and Destination (O&D) Survey (last conducted in 2012) was used to determine the most frequently used languages for LEP individuals. The eligible service population was based on a combination of Census Tract-level data for customers within a one-mile walking distance from each station and county-level census data for customers who make up more than 10% of a given transit mode to access PATH. The results, which mirror the demographic data for the service area, indicate that the highest percentages of individuals with limited English proficiency speak Spanish, followed by Chinese in a distant second.

**Factor 3 Results:**

*Assess the nature and importance of the program, activity, or service provided by the program.*

The nature and importance of Port Authority programs, activities, and services to LEP customers generally mirror the nature and importance of programs, activities, and services to all of our customers. The Port Authority recognizes that public transportation plays a critical role in an individual’s ability to access employment, education, and health care. Although the most frequently encountered LEP populations speak Spanish and Chinese, reasonable accommodations are made to provide notice and outreach to other LEP populations who utilize our services.

**Factor 4 Results:**

*Assess the resources available to the recipients and costs.*

Port Authority operating departments will continue to use a diverse mix of language assistance and outreach methods to ensure that LEP persons have equal access to programs and services. Expenditures related to providing language assistance have not been tracked separately as they are included in a project’s overall outreach budget. Examples of expenditures include translated documents, website pages, brochures and oral interpretation services, customer service agent training program development, new hire training, and refresher courses.
LANGUAGE ASSISTANCE SERVICES

The diverse customers who utilize the public transportation services provided by the Port Authority often require language assistance services. The current best practices for oral and written language assistance services used by the Port Authority, but not used by every operating department, include:

WRITTEN LANGUAGE SERVICES (TRANSLATION)

In the event a respective Port Authority department receives correspondence in a foreign language, the departments will, when applicable, utilize bilingual staff fluent in the language in which the request was received to translate the letter and transcribe a response back to the recipient in the same language. Further, in the absence of a suitable resource available in-house, agency staff, via the Marketing Department, work with a select list of vendors to identify the appropriate translation service as needed. Currently, the Port Authority maintains a list of Minority and Women’s Business Enterprise-certified firms who provide translation services. Additionally, we are exploring the establishment of contractual agreements for translation services utilized by other state government agencies.

ORAL LANGUAGE SERVICES (INTERPRETATION)

Oral interpretation services are provided free of charge. For example, the Aviation Department Customer Care Representatives, the first line of assistance for airport patrons, speak over 27 languages and have the ability to utilize LanguageLine translation telephone services, providing assistance in almost all languages 24 hours a day. Interpreter services may also include airline staff, who usually speak the language of the home base of the carrier. For instance, staff from Lufthansa speak German; staff from El Al speak Yiddish. Additionally, our airports have a very diverse employee base who speak many languages, including sign language, Russian, Hindi, Korean, Japanese, Mandarin, French, Spanish, Yoruba, and more. Our employees also speak dialects of these languages, such as Creole, Cantonese, Dogri, and Khoe, depending on their home country.

Similarly, other Port Authority operating departments also offer a LanguageLine translation service at select facilities. PATH maintains a toll-free customer information telephone line that prompts callers to select their preferred language. TB&T specifically offers this service at its interstate bus terminal facilities: the Port Authority Bus Terminal (PABT) and the George Washington Bridge Bus Station (GWBBS).

Other verbal assistance and interpretation services specifically applicable to the below referenced departments include:

Port Commerce provides assistance at its trucker registration office in Spanish and Polish, the primary languages spoken by the truck driving community.

TB&T utilizes bilingual staff at the PABT and GWBBS and tollhouses to provide customer assistance and also has Spanish-speaking customer service representatives available on the E-Z Pass New York Customer Service Center telephone information line scheduled during regular operating hours. (Monday through Friday, 7 am to 7 pm and Saturdays, 8 am to 2 pm). Additionally, the Port Authority Bus Terminal offers automated telephone information via a toll-free number with an interactive voice response (IVR) system in English, with Spanish-speaking representatives available during normal operating hours (Monday through Friday, 7 am to 7 pm and Saturdays, 8 am to 2 pm). At all other times, the E-Z Pass New York telephone information line has IVR capability in English and Spanish.
INTERPRETATION SERVICES

The use of interpretation services is project specific, determined by the designated project area and affected community/populations. Translators are available upon request at public meetings, based on the LEP needs of that project and community. GOCOR advises the community of the availability of these services, in advance of scheduled public hearings, via print media and through the Government Relations liaison’s regular communication with the respective elected officials and community group leaders of the impacted areas. These community leaders serve as key resources to supplement the statistical information obtained from Census research and the Planning Department in order to identify LEP populations and their needs.

PROVIDING NOTICE TO LEP PERSONS

Notices of nondiscrimination are posted in Spanish and Chinese at locations where people would sensibly seek information, such as information booths and nearby ticket vending machines, or other heavily trafficked areas of facilities.

Signs indicating LanguageLine translation services are posted.

During the planning stages of a project, notification is provided to local residents and businesses of the impacted service area. The methodology of notification varies based upon the size and scope of a project and includes everything from print advertisements in a range of print media outlets in appropriate languages (as determined by the population of the project area) to posters and flyers distributed door to door within the impacted communities. The procedures for requesting a free interpreter are outlined in outreach information. GOCOR also maintains communication with individuals who are active members of their community – not necessarily elected officials – to extend its efforts to identify small or difficult to reach LEP populations. Port Authority staff clarifies that if there are any questions or special accommodations necessary, the Port Authority is willing to address these concerns and provide reasonable accommodations as is feasible.

MONITORING AND UPDATING THE LANGUAGE ASSISTANCE PLAN

GOCOR regularly monitors LEP services provided from reports submitted to OBDCR from operating departments. The Language Assistance Plan will be updated as internal processes develop or change in order to keep pace with best practices.
ATTACHMENT B

AGREEMENT ON TERMS OF DISCUSSION
ATTACHMENT B

AGREEMENT ON TERMS OF DISCUSSION

REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL PROGRAM AND PROJECT MANAGEMENT SERVICES FOR THE PORT AUTHORITY BUS TERMINAL REPLACEMENT PROGRAM ON AN “AS-NEEDED” BASIS

(RFP# 51326)

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, which may be found on the Port Authority website at: http://corpinfo.panynj.gov/documents/Access-to-Port-Authority-Public-Records/. The foregoing applies to any information, whether or not given at the invitation of the Authority.

________________________
(Company)

________________________
(Signature)

________________________
(Title)

________________________
(Date)

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Rev. 8/5/16
ATTACHMENT C

COMPANY PROFILE

REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT
PROFESSIONAL PROGRAM AND PROJECT MANAGEMENT SERVICES FOR
THE PORT AUTHORITY BUS TERMINAL REPLACEMENT PROGRAM ON
AN “AS-NEEDED” BASIS
(RFP 51326)

1. Company Name (print or type):
_____________________________________________________________________

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

3. Business Telephone Number: ____________________________

4. Business Fax Number: ________________________________

5. Firm website: ________________________________________

6. Federal Employer Identification Number (EIN): ______________

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

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

9. Officer or Principal of Firm and Title:
_____________________________________________________________________

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

11. Is your firm certified by the Authority as a Disadvantaged Business Enterprise (DBE)?   Yes  No

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

   If your firm is an DBE 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

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
A. **POLICY**

It is the policy of The Port Authority of New York and New Jersey (the “Port Authority” or the “Authority”) and its related entities, including Port Authority Trans-Hudson Corporation (“PATH”) that Disadvantaged Business Enterprises ("DBEs") are provided the opportunity to participate in the performance of this Contract. Each proposer shall take all necessary and reasonable steps to ensure that its proposal includes DBE participation and performance of work on this Contract, when awarded. This Contract is subject to the United States Department of Transportation ("USDOT") regulations on "DBEs" contained in Part 26 of Title 49 of the Code of Federal Regulations.

The Proposer shall not discriminate on the basis of race, color, national origin, creed/religion, sex, age or handicap/disability in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the Contractor or subcontractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the PANYNJ deems appropriate.

B. **GOAL**

The Port Authority Office of Business Diversity and Civil Rights (“OBDCR”) has established a goal for DBE participation on this Contract, which the proposer will be required to show how it will meet, if awarded this Contract. This goal, expressed as a percentage of the total contract price, including change orders issued pursuant to the changes provision of the contract, is:

**DBE Participation Goal: 17 %**

for firms owned and controlled by socially and economically disadvantaged individuals (as defined in C.5 below) and certified as DBEs by the Authority. Eligible DBE firms are listed on the following Uniform Certification Programs (“UCPs”) websites:

- New York UCP – [https://nysucp.newnycontracts.com](https://nysucp.newnycontracts.com)

In the event the successful proposer’s proposed level of DBE participation is less than this prescribed level of DBE participation, to remain eligible for contract award, the successful proposer must satisfy the good faith efforts requirements set forth in paragraph 1.3 below.

OBDCR is responsible for determining compliance by the proposer with DBE Program requirements established for this solicitation and in this Contract. The proposer shall make all DBE Program submissions required by this solicitation to the Port Authority Procurement Department contact with a copy to OBDCR. Once awarded, the successful proposer (Contractor) will make all DBE Program submissions to OBDCR at the following address and email address:

Contract Number: TBD

Name: Jacqueline Carroll
Email: jacarroll@panynj.gov Telephone No.: (201) 395-3958
Address: The Port Authority of New York & New Jersey
2 Montgomery Street, 2nd Fl. Jersey City, NJ 07302

C. DEFINITIONS

1. To avoid undue repetition, the following terms, as used in this Agreement, shall be construed as follows: Bidder or Proposer can be used interchangeably and Consultant or Contractor can be used interchangeably.

2. Certification means the process by which a business demonstrates to OBDCR or to a New York State Unified Certification Program Certifying Partner ("NYSUCP") or to a New Jersey Unified Certification Certification Partner ("NJUCP") that it meets the requirements to be a DBE under USDOT regulations set forth in 49 C.F.R. Part 26.

3. Disadvantaged Business Enterprise or DBE is a for-profit small business concern (a) that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which at least 51% of the stock is owned by one or more such individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

4. New York State Unified Certification Program Certifying Partners include the Port Authority of New York & New Jersey, Metropolitan Transportation Authority, the Niagara Frontier Transportation Authority and the New York State Department of Transportation.

5. New Jersey Unified Certification Program Certifying Partners include the Port Authority of New York & New Jersey, New Jersey Transit and the New Jersey State Department of Transportation.

6. Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

   a. Any individual OBDCR or a NYSUCP or NJUCP Certifying Partner finds to be a
socially and economically disadvantaged individual on a case-by-case basis.

b. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

1. **Black Americans** which includes persons having origins in any of the Black racial groups of Africa;

2. **Hispanic Americans** which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South America or other Spanish or Portuguese culture or origin, regardless of race;

3. **Native Americans** which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

4. **Asian-Pacific Americans** which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

5. **Subcontinent Asian Americans** which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

6. **Women**; and

7. Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration ("SBA"), at such time as the SBA designation becomes effective.

**D. THE DBE PROGRAM**

The Port Authority has established a Disadvantaged Business Enterprise (DBE) program in accordance with applicable United States Department of Transportation (USDOT) regulations in 49 CFR Part 26. The Port Authority receives Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Port Authority has signed an assurance that it will comply with these regulations. It is the policy of the Port Authority to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also Port Authority policy:

*To ensure nondiscrimination in the award and administration of USDOT-assisted contracts:*

1. **To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;**

2. **To ensure that the DBE program is narrowly tailored in accordance with 49 CFR Part 26;**

3. **To ensure that only firms that fully meet regulatory eligibility standards as outlined in 49 CFR Part 26 are permitted to participate as DBEs;**

4. **To help remove barriers to the participation of DBEs in USDOT-assisted contracts; and,**
5. To assist the development of firms that can compete successfully in the market place outside the DBE program.

The Director of OBDCR has been delegated as the DBE Liaison Officer. In that capacity, the Director of OBDCR is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Port Authority in its financial assistance agreements with the USDOT.

The Port Authority has disseminated this policy statement to the Board of Commissioners and all the components of our organization. We have disseminated this statement to DBE and non-DBE business communities that perform work for us on USDOT-assisted contracts through posting on the OBDCR website: http://www.panynj.gov/business-opportunities/supplierdiversity.html

E. DBE OBLIGATION

The proposer agrees to take all necessary and reasonable steps to ensure that DBEs have the opportunity to compete for and perform work under this Contract, if awarded. (Note: If the total contract price is increased as a result of change orders, the Contractor shall make a good faith effort to achieve a commensurate increase in DBE participation). Submission of the proposal constitutes a certification and representation by the proposer that good faith efforts will be made to satisfy the DBE goal requirement in paragraph B during contract performance.

Furthermore, the Proposer will ensure that the following clause is placed in every contract or subcontract resulting from this Contract:

“The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, creed/religion, sex, age or handicap/disability, in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the Contractor or subcontractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the PANYNJ deems appropriate.”

F. SUBMISSION OF DBE UTILIZATION PLAN

By submitting a bid or proposal for this Contract, the proposer assures the Authority that it will meet the foregoing goal and shall submit the DBE Goals Statement form (Appendix A1) with its Proposal. If the proposer determines it cannot make this assurance, it may nevertheless submit a bid or proposal, but in such event, it shall note on the DBE Goals Statement form the percentage of DBE participation it anticipates, including documentation supporting the good faith efforts made to achieve the goals set forth in the Contract.

The proposer shall submit, with its Proposal, the DBE Participation Plan and Affirmation Statement (Appendix A2) for each DBE firm it intends to use on this Contract. The DBE Participation Plan and Affirmation Statement shall provide the name and address of each DBE firm, a description of the work to be performed, the dollar value of each DBE subcontract and the signature affirmation from each DBE firm participating in this Contract.
The bidder shall submit with its Proposal the completed Information on Solicited Firms form (Appendix A4), listing every firm that provided a quotation to the bidder for any subcontract to be performed under this Contract, whether the firms are DBE certified and whether the firms’ quotes were included in the final Proposal.

1. By listing a firm on its DBE Participation Plan and Affirmation Statement (Appendix A2) the proposer is representing the following:
   a. It intends to use the firm for the work specified in the DBE Participation Plan and Affirmation Statement (Appendix A2) to perform the work specified.
   b. The firm is a certified DBE in the states of either New York or New Jersey and is technically and financially qualified to perform the work specified and that the firm is available to perform the work.
   c. If it is awarded the contract, it will enter into a subcontract with such DBE (or an approved substitute), subject to the terms and conditions of this contract, for the work described and at the price set forth in the DBE Participation Plan and Affirmation Statement (Appendix A2).

It will not substitute a DBE firm listed in its DBE Participation Plan and Affirmation Statement (Appendix A2) unless the Port Authority provides prior written approval in accordance with Paragraph J, below.

G. PROMPT PAYMENT AND RETAINAGE PROVISION

The Contractor agrees to pay each subcontractor under this prime contract for the satisfactory performance of its contract, no later than ten (10) days from the receipt of each payment the Contractor receives from the Authority. The Contractor agrees further to return all retainage, if any, owed to a subcontractor within ten (10) days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced time-frame may occur only for good cause following written approval from the Port Authority. This clause applies to both DBE and non-DBE subcontractors. Failure to comply with this section may constitute a breach of contract, entitling the Port Authority to remedies provided herein, in addition to any other available remedy.

H. CREDIT TOWARD DBE GOAL

No credit toward meeting the DBE goal will be allowed unless OBDCR or a NYSUCP or NJUCP Certifying Partner has certified the DBE firm as eligible. Only the value of the work actually performed by the DBE will be counted toward the DBE goal. The DBE shall verify payments on the DBE Payment Request Certification Form attached to all invoices. The Authority will use the following guidelines to determine the amount to be counted toward the DBE goal:

1. OBDCR will credit the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, toward DBE goals, provided OBDCR determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

2. When a DBE subcontracts part of the work of its contract to another firm, the value of the
subcontracted work may be counted toward DBE goals only if the DBE’s subcontractor is itself a certified DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

3. Joint ventures between DBEs and non-DBEs may be counted toward the DBE goal in proportion to the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces. Please contact the Office of Business Diversity and Civil Rights at (201) 395-3958 for more information about requirements for such joint ventures.

4. OBDCR will credit expenditures to a DBE subcontractor toward DBE goals, only if the DBE is performing a commercially useful function on the contract.

5. **Commercially Useful Function**

   A. A DBE is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of work on a contract and carries out its responsibilities by actually performing, managing and supervising the work involved in accordance with normal industry practice. Regardless of whether an arrangement between the Contractor and the DBE represents standard industry practice, if the arrangement erodes the ownership, control or independence of the DBE or in any other way does not meet the commercially useful function requirement, that firm shall not be included in determining whether the DBE goal is met and shall not be included in DBE reports. If this occurs with respect to a firm identified as a DBE, the Contractor shall receive no credit toward the DBE goal and may be required to backfill the participation. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction or contract through which funds are passed in order to obtain the appearance of DBE participation. A DBE may rebut a determination by the Authority that the DBE is not performing a commercially useful function to the United States Department of Transportation (USDOT) funding agency (for example, FAA, FTA or FHWA).

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

   C. Supervision. All Work performed by the DBE must be controlled and supervised by the DBE without duplication of supervisory personnel from the Contractor, their affiliates and other subcontractors performing Work on the Contract. This does not preclude routine communication between the supervisory personnel of the DBE and other supervisors necessary to coordinate the Work.

   D. Equipment. DBE subcontractors may supplement their equipment by renting or leasing additional equipment in accordance with customary industry practice. If the DBE obtains equipment from the Contractor, other contractors or their affiliates, the DBE shall provide documentation to the Authority demonstrating that similar equipment and
terms could not be obtained at a lower cost from other customary sources of equipment. The required documentation shall include copies of the rental or leasing agreements, and the names, addresses, and terms quoted by other sources of equipment.

E. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, OBDCR will presume that it is not performing a commercially useful function.

6. Counting DBE Participation

When a certified DBE firm is awarded the Contract, the DBE goals shall be deemed to have been met.

The value of the Work performed by a DBE, including that of a DBE prime contractor, with its own equipment, with its own forces, and under its own supervision, will be counted toward the DBE goal, provided the utilization is a commercially useful function. Work performed by DBEs will be counted as set forth below. If the Authority determines that some or all of the DBE's work does not constitute a commercially useful function, only the portion of the work considered to be a commercially useful function will be credited toward the DBE goal.

A. Subcontractors. 100 percent of the value of the Work to be performed by a DBE subcontractor will be counted toward the DBE goal. The value of such Work includes the cost of materials and supplies purchased by the DBE, except the cost of supplies or equipment leased from the Contractor, other subcontractors or their affiliates will not be counted. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

B. Manufacturers/Fabricators. 100 percent of the expenditure to a DBE manufacturer or fabricator will be counted towards the DBE goal.

C. Material Suppliers. 60 percent of the expenditure to a DBE material supplier will be counted toward the DBE goal. Packagers, brokers, manufacturer’s representatives, or other persons who arrange or expedite transactions are not material suppliers within the meaning of this paragraph.

D. Brokers/Manufacturer’s Representatives. 100 percent of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees for transportation charges for the delivery of materials or supplies provided by a DBE broker/manufacturer’s representative will be counted toward the DBE goal, provided they are determined by the Authority to be reasonable and not excessive as compared with fees customarily allowed for similar services. The cost of the materials and supplies themselves will not be counted.

E. Services. 100 percent of fees or commissions charged by a DBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of the Work will be counted toward the DBE goal, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.

F. Trucking Operations. The DBE trucking firm of record is the firm that is listed on the DBE
Participation Plan. The DBE trucking firm shall own and operate at least one registered, insured and fully operational truck used for the performance of the Work and shall be responsible for the management and supervision of the entire trucking operation on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting the DBE goal. The DBE trucking firm of record shall control the day-to-day DBE trucking operations for performance of the Work, and shall be responsible for (1) negotiating and executing rental/leasing agreements; (2) hiring and terminating the work force; (3) coordinating the daily trucking needs with the Contractor; and (4) scheduling and dispatching trucks.

1. DBE Owned/Leased Trucks. 100% of the value of the trucking operations the DBE provides for the performance of the work using trucks it owns and trucks that are registered, insured and operated by the DBE using drivers it employs, will be counted toward the DBE goal.

2. DBE Leased Trucks. The DBE may lease trucks from another DBE, including an owner/operator who is certified as a DBE. 100% of the value of the trucking operations that the lessee DBE provides will be counted toward the DBE goal.

3. Non-DBE Trucks. The DBE may lease trucks from non-DBE firms and owner-operators. The value of these trucking services will be counted toward the DBE goal up to the value of services performed by the DBE trucks used on the Contract. DBE participation can be counted for the value of the services of non-DBE trucks that exceed the value of the services performed by DBE trucks only in the amount of the fee or commission a DBE receives as a result of the lease agreement.

G. Joint Venture Joint ventures between DBEs and non-DBEs will be counted toward the DBE goal in proportion to the total dollar value of the Contract equal to the distinct, clearly defined portion of the Work of the Contract that the DBE performs with its own forces. The joint venture agreement is therefore subject to review by OBDCR, a copy of which is to be furnished by the firm to be awarded the Contract before execution of the Contract.

7. If a firm is not currently certified as a DBE in accordance with 49 CFR Part 26 at the time of the execution of the Contract, OBDCR will not credit the firm’s participation toward any DBE goals, except as provided for in 49 CFR Section 26.87(i).

8. When a firm loses its DBE certification, OBDCR will follow the applicable regulations in 49 CFR Section 26.87(j).

a. If a contract or subcontract has not been executed with the firm prior to notification of its ineligibility, any participation by the ineligible firm will not be counted toward the contract or overall goal. OBDCR will direct the Contractor to meet the contract goal with an eligible DBE firm or demonstrate good faith efforts to do so.

b. If a contract or subcontract has been executed with the firm prior to notification of its ineligibility, the Contractor may continue to receive credit toward its DBE goal for the firm’s work.

9. OBDCR will not credit toward the DBE goal the participation of a DBE subcontractor until the amount being counted toward the goal has actually been paid to the DBE, as evidenced by
submission of the Statement of Payments to DBE Subcontractors / Lessors / Suppliers and the DBE Payment Request Certification Form.

I. CONTRACT AWARD

1. Only proposers who submit proposals that meet the DBE goal or who demonstrate good faith efforts to meet the DBE goal, as herein provided will be eligible for award of the Contract.

2. If the successful proposer does not reach the DBE goal, the proposer shall nevertheless remain eligible for award of the contract if it can demonstrate to the satisfaction of OBDCR that it has made a good faith effort to meet the DBE goal. In making such a determination, OBDCR shall consider, among other things, the criteria set out in subparagraph 3 below.

3. Demonstration of Good Faith Efforts

To demonstrate a good faith effort to meet the DBE contract goal, a proposer shall submit with the DBE Goals Statement form (Appendix A1) a list of the steps it has taken to obtain DBE participation, together with documentation supporting those steps. Such efforts may be demonstrated by showing the following:

a. That the proposer attended any pre-solicitation or pre-bid meetings that were scheduled by the Port Authority to inform DBEs of contracting and subcontracting opportunities;
   b. That the proposer advertised in general circulation, trade association, and minority-focus media, at least 15 days before proposal due date, to request DBE subcontract performance on the specific project;
   c. That the proposer provided written notice to a reasonable number of specific DBEs that their interest in the contract was being solicited, in sufficient time to allow the DBEs to participate effectively;
   d. That the proposer followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested in participating in the project;
   e. That the proposer selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goal (including where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
   f. That the proposer provided interested DBEs with adequate information about the plans, specifications and requirements of the contract;
   g. That the proposer negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities. Documented efforts of negotiations with DBEs must include at a minimum:
      1. The names, addresses and telephone numbers of DBEs that were considered;
      2. A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed;
      3. A statement explaining why agreements with the DBEs could not be reached.
h. That the proposer made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by the Port Authority or Consultant;

i. That the proposer made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services; and

j. That the proposer effectively used the services of available minority/women community organizations; minority/women contractor’s groups; local, state and federal minority/women business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs.

4. Reconsideration of Good Faith Efforts Determination

In determining whether a proposer has demonstrated good faith efforts, the Port Authority will look at all efforts that the proposer has made. If OBDCR determines that the successful proposer has failed to make good faith efforts to meet the DBE goal, that firm’s submission may be deemed non-responsive. The non-responsive firm will have an opportunity for administrative reconsideration, in accordance with the Port Authority’s Protest Procedures. In accordance with the Protest Procedures, as part of this reconsideration, the proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. In accordance with the Protest Procedures, a written decision will be sent to the proposer explaining the basis for finding that the proposer did or did not meet the goal or make adequate good faith efforts to do so.

J. DBE MODIFICATIONS

In the event that a proposer wishes to modify its DBE Participation Plan and Affirmation Statement (Appendix A2) after its submission or after a contract is awarded, the proposer then must request approval for the modification from OBDCR in writing. A proposer may not, without OBDCR’s prior consent, terminate a DBE subcontractor approved under this contract and then perform the work of the contract with its own forces or those of an affiliate. A modification includes any change to items of work, material, services, subcontract value or DBE firms, which differ from those identified on the approved DBE Participation Plan and Affirmation Statement (Appendix A2). When a DBE subcontractor is terminated or fails to complete its work for any reason, the Contractor must make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts must be directed at finding other DBEs to perform at least the same amount of work under the contract as the former DBE to the extent needed to meet the contract goal. The Contractor must provide OBDCR with any and all documents and information as may be requested with respect to the modification. If OBDCR determines that the Contractor failed to make good faith efforts, the Port Authority may consider such failure a breach of contract, entitling the Port Authority to remedies provided herein, in addition to any and all other available remedies.

Subsequent to Contract award, all changes to the DBE Participation Plan must be submitted via a Modified DBE Participation Plan and Affirmation Statement (Appendix A3) to the Manager for review and approval by the Authority’s Office of Business.
Diversity and Civil Rights. For submittal of modifications to the DBE Plan, Contractors are directed to use Appendix A3, which may be downloaded at http://www.panynj.gov/business-opportunities/pdf/PA4243.pdf.

K. EEO/NON-DISCRIMINATION

During the performance of this Contract, the Contractor 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 subcontractors and/or vendors under this Contract. Contractor 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, including 49 CFR Part 26.

L. OFFICE OF THE INSPECTOR GENERAL

The Port Authority Office of Inspector General (OIG) is responsible for investigating fraud and misconduct by Port Authority contractors, subcontractors, consultants, suppliers and others, including the DBE Program.

Depending upon the dollar value of the construction project, and regulatory requirements, the OIG might engage the services of an Integrity Monitor who reports to the OIG and assists in monitoring compliance governing the DBE program.

The OIG and its Integrity Monitors may perform on-site investigations and payment verifications, review relevant consultant, contractor, subcontractor and supplier documents, including but not limited to financial records, certificates and licenses, certified payroll reports, and employee sign-in sheets. They may also interview officers and employees of these firms either on-site, at their offices, or at any other location the OIG determines is in the best interest of the Port Authority.

All consultants, contractors, subcontractors, suppliers and others who are participating in the DBE Program in any manner, shall cooperate fully with the Port Authority OIG and shall provide all requested documents immediately upon request. The failure to cooperate may be considered a breach of contract, entitling the Port Authority to remedies provided herein, in addition to any other available remedy.

M. APPENDICES

1. APPENDIX A1: Professional, Technical And Advisory Services DBE Goals Statement
2. APPENDIX A2: Professional, Technical And Advisory Services DBE Participation Plan and Affirmation Statement
3. APPENDIX A3: Modified Professional, Technical And Advisory Services DBE Participation Plan and Affirmation Statement
4. APPENDIX A4: Professional, Technical And Advisory Services Information On Solicited Firm
The undersigned Proposer has satisfied the requirements of the Agreement in the following manner (Complete the appropriate spaces and check one box):

☐ The Proposer is committed to meeting the DBE goal set forth in this Agreement.

OR

☐ The Proposer is unable to meet the DBE goal set forth in this Agreement, but is committed to a minimum of _____% DBE contract on this Agreement and submits the attached narrative and documentation demonstrating good faith efforts consistent with Appendix A of 49 CFR 26 to meet the DBE utilization goal set forth in this Agreement. Attach as many pages as necessary to provide a full and complete narrative and supporting documentation of good faith efforts made. This narrative shall be submitted on company letterhead and signed.

It is the present intent of the Proposer to utilize the specific DBE firms identified in Appendix A2 in the performance of the Services under this Agreement. If for any reason, one or more of the DBE firms identified in Appendix A2 are unable or unwilling to participate, Proposer will make good faith efforts to replace the DBE firm with another DBE firm in accordance with the Standard Agreement clause entitled “Disadvantaged Business Enterprise Program”.

I _______________________ (print name), an officer of __________________________ (company name), certify that I have read the Appendix A1 - Professional Services - DBE Goals Statement and the information contained in it is true. I fully understand that any false statement within this submittal may prevent the company and/or the undersigned from being found to be responsible bidders/proposers in connection with future agreements. In addition, any false statement within this submittal may subject the company and/or the undersigned to criminal charges in the state and federal courts of New York and New Jersey.

Signature __________________________ Title ____________________ Date ______________

Officer must have ACKNOWLEDGEMENT BY NOTARY PUBLIC completed on the reverse side.
ACKNOWLEDGMENT BY NOTARY PUBLIC

APPENDIX A1 – PROFESSIONAL SERVICES – DBE GOALS STATEMENT (reverse)

STATE OF ______________ )

COUNTY OF ______________ )

On the ___ day of __________________ in the year 20 ___, before me, the above undersigned, personally appeared __________________, the _________________, of ______________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity.

Name of Notary (print) __________________

(Affix Notary Stamp Here)

My Commission Expires _________

(Notary Signature) _________

(Date)
Instructions: Submit one DBE PARTICIPATION PLAN AND AFFIRMATION STATEMENT form for each DBE firm used on this Agreement.

**RFP NUMBER AND TITLE:**
__________________________________________________________________________________________________________

**PROPOSER:**
Name of Firm: ____________________________________________________________________________________________
Address: _________________________________________________________________________________________________ Telephone: ________________________________
Email Address: ____________________________________________________________________________________________

**DBE:**
Name of Firm: ____________________________________________________________________________________________
Address: _________________________________________________________________________________________________ Telephone: __________________________
Description of services to be performed by DBE: __________________________________________________________________________________________
Calculation (supply only): ____________________________________________________________________________

The Proposer is committed to utilizing the above-named DBE for the services described above. The estimated dollar value of these services is $____________ or ____% of the total Agreement amount of $____________. The anticipated start date is ____________ and the anticipated completion date is _______________

**AFFIRMATION**
The above-named DBE affirms that it will perform the portion of the Agreement for the estimated dollar value as stated above.

By: __________________________________________________ Date: __________________________
Signature of Principal or Officer of DBE – Print Name and Title

If the Proposer does not receive award of the Agreement, any and all representations in this DBE Participation Plan and Affirmation Statement shall be null and void.

I _______________________ (print name), an officer of __________________________ (company name), certify that I have read the Appendix A2 –Professional Services - DBE Participation Plan and Affirmation Statement and the information contained in it is true. I fully understand that any false statement within this submittal may prevent the company and/or the undersigned from being found to be responsible Bidders/Proposers in connection with future agreements. In addition, any false statement within this submittal may subject the company and/or the undersigned to criminal charges in the state and federal courts of New York and New Jersey.

Signature __________________________________________ Title __________________________ Date ________________

Please Note: Only 60% of the expenditure to a DBE material supplier will be counted toward the DBE goal. Please show calculation above. Example: $100,000 x 60% = $60,000 estimated DBE dollar value of work. Plan cannot be accepted without calculation.

**Officer of Proposer must have ACKNOWLEDGEMENT BY NOTARY PUBLIC completed on the reverse side.**
ACKNOWLEDGMENT BY NOTARY PUBLIC

APPENDIX A2 – PROFESSIONAL, TECHNICAL AND ADVISORY SERVICES
DBE PARTICIPATION PLAN AND AFFIRMATION STATEMENT (reverse)

STATE OF ______________________

S.S.:__________________________________________

COUNTY OF ______________________

On the ___day of _________________ in the year 20 , before me, the above undersigned, personally appeared ________________, the ____________, of ______________________ , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity.

Name of Notary (print) ______________________

(Affix Notary Stamp Here)

My Commission Expires __________

(Notary Signature) _____________________________

(Date) _____________________________
OFFICE OF BUSINESS DIVERSITY AND CIVIL RIGHTS

APPENDIX A3: MODIFIED PROFESSIONAL, TECHNICAL & ADVISORY SERVICES

DBE PARTICIPATION PLAN AND AFFIRMATION STATEMENT

Instructions: Submit one MODIFIED DBE PARTICIPATION PLAN AND AFFIRMATION STATEMENT form for each DBE firm used on this Agreement. To avoid undue repetition, the following terms, as used in this Agreement, shall be construed as follows: Bidder/Proposer/Respondent - can be used interchangeably and signify any Contractor, Consultant, Supplier, or Vendor who submits a response to this solicitation.

RFP NUMBER AND TITLE:

PROPOSER:
Name of Firm: ____________________________
Address: ____________________________ Telephone: ____________________________
Email Address: ____________________________

DBE:
Name of Firm: ____________________________
Address: ____________________________ Telephone: ____________________________

Description of work to be performed by DBE: ____________________________

Calculation (supply only): ____________________________

The Proposer is committed to utilizing the above-named DBE for the services described above. The estimated dollar value of these services is $________ or _______% of the total Agreement amount of $________. The anticipated start date is _______ and the anticipated completion date is _______.

AFFIRMATION of DBE

The above-named DBE affirms that it will perform the portion of the Agreement for the estimated dollar value as stated above.

By: ____________________________
Signature of Principal or Officer of DBE – Print Name and Title ____________________________ Date

If the Proposer does not receive award of the Agreement, any and all representations in this Modified DBE Participation Plan and Affirmation Statement shall be null and void.

I ____________________________ (print name), an officer of ____________________________ (company name), certify that I have read the Appendix A3 Modified Professional, Technical & Advisory Services DBE Participation Plan and Affirmation Statement and the information contained in it is true. I fully understand that any false statement within this submittal may prevent the company and/or the undersigned from being found to be responsible Bidders/Proposers in connection with future agreements. In addition, any false statement within this submittal may subject the company and/or the undersigned to criminal charges in the state and federal courts of New York and New Jersey.

Signature ____________________________ Title ____________________________ Date ____________________________

Please Note: Only 60% of the expenditure to a DBE material supplier will be counted toward the DBE goal. Please show calculation above. Example: $100,000 x 60% = $60,000 estimated DBE dollar value of work. Plan cannot be accepted without calculation.

Officer of Proposer must have ACKNOWLEDGEMENT BY NOTARY PUBLIC completed on the reverse side.
ACKNOWLEDGMENT BY NOTARY PUBLIC

PA4243
APPENDIX A3 - MODIFIED PROFESSIONAL, TECHNICAL AND ADVISORY SERVICES
DBE PARTICIPATION PLAN AND AFFIRMATION STATEMENT (reverse)

STATE OF ____________________________  ) SS:
COUNTY OF ____________________________

On the _______ day of __________ in the year 20________, before me, the above undersigned, personally appeared__________________ , the __ of ____________________________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity.

Name of Notary (print) ____________________________

(Affix Notary Stamp Here)

My Commission Expires ____________________________

Notary Signature ____________________________  (Date)
The Proposer must complete this form for itself and for all firms, which gave the Proposer a quotation for any services planned to be subcontracted regardless of whether they are ultimately chosen to participate in the Agreement. Provide the information required below for every firm that provided a proposal or a quote for a subcontract – even if the proposal or quote from the firm is not used in the preparation of the final Proposal.

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<th>Firm Age</th>
<th>Annual Gross Revenue Range</th>
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Footnote: Annual Gross Revenue Ranges: Less than $500,000; $500,000 - $1 Million; $1 - $2 Million; $2 - $5 Million; Over $5 Million - Select the category that best identifies the annual gross revenue of the solicited firm.

I ______________________ (print name), an officer of ______________________ (company name), certify that I have read the Appendix A4 – PROFESSIONAL, TECHNICAL AND ADVISORY SERVICES - INFORMATION ON SOLICITED FIRMS and the information contained in it is true. I fully understand that any false statement within this submittal may prevent the company and/or the undersigned from being found to be responsible Bidders/Proposers in connection with future agreements. In addition, any false statement within this submittal may subject the company and/or the undersigned to criminal charges in the state and federal courts of New York and New Jersey.

Signature ______________________ Title ______________________ Date ______________________

Officer must have ACKNOWLEDGEMENT BY NOTARY PUBLIC completed on reverse side.
ACKNOWLEDGMENT BY NOTARY PUBLIC

APPENDIX A4 – PROFESSIONAL, TECHNICAL AND ADVISORY SERVICES – INFORMATION ON SOLICITED FIRMS
(reverse)

STATE OF ________________________) S.S.:
COUNTY OF ______________________)

On the ___day of _________________ in the year 20__, before me, the above undersigned, personally appeared ________________, the __________, of ______________________ , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity.

Name of Notary (print) _________________________

(Affix Notary Stamp Here)

My Commission Expires _______ (Notary Signature) _________ (Date)
ATTACHMENT G

INSURANCE REQUIREMENTS
RFP# 51326

PERFORMANCE OF EXPERT PROFESSIONAL PROGRAM AND PROJECT MANAGEMENT SERVICES FOR THE PORT AUTHORITY BUS TERMINAL REPLACEMENT PROGRAM ON AN “AS-NEEDED” BASIS

ATTACHMENT G

INSURANCE REQUIREMENTS

LIABILITY INSURANCE AND WORKERS’ COMPENSATION INSURANCE

A. Commercial Liability Insurance:

1) The Consultant shall take out and maintain at his own expense Commercial General Liability Insurance including but not limited to Premises-Operations, Completed Operations, Coverage for the explosion, collapse and underground property damage (XCU) hazards, Coverage for work within (50) feet of Railroad and Independent Contractor coverages in limits of not less than $5,000,000 combined single limit per occurrence for Bodily Injury Liability and Property Damage Liability. If vehicles are to be used to carry out the performance of this Agreement, then the Consultant shall also take out, maintain and pay the premiums on Automobile Liability Insurance covering all owned, non-owned and hired autos in not less than $5,000,000 combined single limit per accident for bodily injury and property damage. Any/all activities performed airside must, at all times, be performed while under security escort as approved in advance, and in writing by the Project Manager. If at any time, the Consultant is unescorted in the performance of any field services airside, or if so directed by the Authority, the Commercial General Liability Insurance and Automobile Liability Insurance must contain limits of not less than $10,000,000 combined single limit per occurrence, as provided in item 2) (a) below. In addition, the liability policies (other than Professional Liability) shall include the “The Port Authority of New York and New Jersey and its related entities, their Commissioners, Directors, Superintendents, officers, partners, employees, agents, their affiliates, successors or assigns” as additional insureds and shall contain an endorsement that the policy may not be canceled, terminated or modified without thirty (30) days written advance notice to the Project Manager as noted below. Moreover, the Commercial General Liability policy shall not contain any provisions (other than a Professional Liability exclusion, if any) for exclusions from liability other than provisions or exclusions from liability forming part of the most up to date ISO form or its equivalent, unendorsed Commercial General Liability Policy. The liability policy(ies) and certificate of insurance shall contain cross-liability language providing severability of interests so that coverage will respond as if separate policies were in force for each insured. Furthermore, the Consultant’s insurance shall be primary insurance as respects to the above additional insureds, its representatives, officials, and employees. Any insurance or self-insurance maintained by the above additional insureds shall not contribute to any loss or claim. Further, the certificate of insurance and the liability policy(ies) shall be specifically endorsed that “The insurance carrier(s) shall not, without obtaining the express advance written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the Tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.”
2) Additional Coverages: The Consultant shall have the policy endorsed when required by the Director for specific services hereunder and include the additional premium cost thereof as an out-of-pocket expense:

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

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

B. Workers' Compensation Insurance:

   1) The Consultant shall take out and maintain Workers' Compensation Insurance in accordance with the requirements of law and Employer’s Liability Insurance with limits of not less than $1,000,000 each accident. A waiver of subrogation in favor of the Authority and its related entities, as allowed by law, shall be included. Amendments to Coverage B, federal Employers’ Liability Act in limits of not less than $1,000,000 per occurrence.

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

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

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

C. Professional Liability Insurance:

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

D. Compliance:

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

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

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

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

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

5) The Port Authority may at any time during the term of this agreement change or modify the limits and coverages of insurance. Should the modification or change results in an additional premium, The General Manager, Risk Management for the Port Authority may consider such cost as an out-of-pocket expense.
ATTACHMENT H

PROPOSER REQUIREMENTS
Attachment H-1

Proposer Requirement A

Successfully completed two (2) projects involving similar scopes of work within the past ten (10) years, with each project having a construction value similar to those contemplated in the RFP’s scope of work (Attachment A);

* Note - Duplicate form as necessary *

Reference RFP Section I – Proposer Requirements
If Proposer is a common law joint venture, specify which entity’s experience is being cited below to satisfy Requirement A.

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Note – Client Contact must be employee of Company
Attachment H-2

Proposer Requirement B

Have a minimum of ten (10) years’ experience in providing Project Management services similar to those contemplated in the RFP’s scope of work (Attachment A);

* Note - Duplicate form as necessary *

Reference RFP Section I – Proposer Requirements

If Proposer is a common law joint venture, specify which entity’s experience is being cited below to satisfy Requirement B.

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Note – Client Contact must be employee of Company
**Attachment H-3**

**Proposer Requirement C**

Lead Project Manager(s) must have completed one (1) project with a scope of work similar to those contemplated in the RFP’s scope of work (Attachment A).

* Note - Duplicate form as necessary *

*Reference RFP Section I – Proposer Requirements*

If Proposer is a common law joint venture, specify which entity’s experience is being cited below to satisfy Requirement C.

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Note – Client Contact must be employee of Company
EXHIBIT I

FEDERAL TRANSIT ADMINISTRATION (FTA)

CONTRACT PROVISIONS
EXHIBIT I (REV. 06/08/2017)  
FEDERAL TRANSIT ADMINISTRATION CONTRACT PROVISIONS  
(FOR GRANTS DATED ON OR AFTER DECEMBER 26, 2014)

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DEFINITIONS

The following words have the following meanings for purposes of the below-numbered clauses of these Federal Transit Administration Contract Administration Provisions only:

“Agreement” means “Contract”. This Agreement is anticipated to be funded in whole or in part by the United States Department of Transportation’s Federal Transit Administration (FTA).

“Construction” means Construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property. For purposes of this definition, the terms “buildings, structures, or other real property” include, but are not limited to, improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, cemeteries, pumping stations, railways, airport facilities, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, and channels. Construction does not include the manufacture, production, furnishing, Construction, alteration, repair, processing, or assembling of vessels, aircraft, or other kinds of personal property.

“Contractor” and “Subcontractor” means the same as “Consultant” and “Subconsultant,” respectively.

“Micro-Purchase” means a purchase of $3,500 or less and is exempt from FTA’s Buy America requirements but is subject to Davis-Bacon prevailing wage requirements such that even though the Port Authority uses micro-purchase procurement procedures, prevailing wage requirements apply to Construction contracts exceeding $2,000.

“PATH” means the Port Authority Trans-Hudson Corporation.

“Port Authority of New York and New Jersey” means shall mean the Port Authority of New York and New Jersey and its subsidiaries, including PATH.

“Recipient” means a Recipient of Federal assistance awarded by the Federal Transit Administration (FTA) when using that Federal assistance to finance its procurements (third party contracts).

“Simplified Acquisition Threshold” or “SAT” means $150,000 for grants dated on or after December 26, 2014; and $100,000 for grants dated before December 26, 2014.
1. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION TERMS

This section applies to all contracts except Micro-Purchases.

The following provisions include, in part, certain Standard Terms and Conditions required by the United States Department of Transportation (DOT), whether or not expressly set forth in the following contract provisions. All contractual provisions required by DOT, as set forth in the FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests that would cause the Authority to be in violation of the FTA terms and conditions.

The Contractor shall include the above clause in every subcontract financed in whole or in part with Federal assistance provided by the FTA and shall ensure that such provisions will be binding upon each subcontractor of any tier.

Each and every provision required by the FTA to be inserted in this Contract shall be deemed to be inserted herein, including but not limited to Title 2 of the Code of Federal Regulations, Part 200 (“2 CFR 200”), as it may be applicable and the Contract shall be read and enforced as though it were included herein. If any provision of this Contract shall be such as to effect non-compliance with any FTA requirement, such provision shall not be deemed to form part hereof, but the balance of this Contract shall remain in full force and effect.

2. FEDERAL CHANGES

This section applies to all contracts except Micro-Purchases.

The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Authority and the FTA, as they may be amended or promulgated from time to time during the term of this Contract. Contractor’s failure to so comply shall constitute a material breach of this Contract. The most recent Federal laws, regulations, policies, and administrative practices shall apply to this Contract at any particular time, unless the FTA issues a written determination otherwise. All standards or limits within this document are minimum requirements, unless modified by the FTA or any subagency thereof. The requirements of this section shall apply to each applicable changed requirement.

The Contractor shall include the above clause in every subcontract financed in whole or in part with Federal assistance provided by the FTA and shall ensure that such provisions will be binding upon each subcontractor of any tier.
3. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

This section applies to all contracts except Micro-Purchases.

The Authority and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Authority, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

4. ORGANIZATIONAL CONFLICT OF INTEREST

This Contract may give rise to a potential for an organizational conflict of interest, which exists when the nature of the work to be performed under the contract may, without appropriate restrictions on future activities; result in an unfair competitive advantage to the Contractor.

1.) The Contractor may have access to confidential and/or sensitive Authority information in the course of contract performance. Additionally, the Contractor may be provided access to proprietary information obtained from other contracted entities during contract performance. The Contractor agrees to protect all such information from disclosure unless so authorized, in writing, by the Authority and to refrain from using such information for any purpose other than that for which it was furnished.

2.) To the extent that the Contractor either (a) uses confidential and/or sensitive Authority information or proprietary information obtained from other Authority contractors to develop any form of document, report, or plan that is determined by the Authority to be the basis, in whole or in part, of any subsequent solicitation issued by the Authority or (b) develops written specifications that are used in any subsequent solicitation issued by the Authority, the Contractor agrees that it shall not be eligible to compete for such subsequent solicitation(s) as a prime or principal contractor or as part of any teaming arrangement unless the Authority provides, in writing, a specific waiver of this restriction. The duration of any restriction imposed under this subparagraph shall not exceed the length of the initial performance period of any subsequently awarded contract for which the Contractor was ineligible to compete.

The Contractor, by submitting its bid or proposal, agrees and shall cause its subcontractors to agree, to the above stated conditions and terms and further agrees to perform all duties under the contract and, in doing so, not to enter into contractual agreements with Authority prime
contractors and first-tier subcontractors in such a way as to create an organizational conflict of interest.

If the Authority determines that the Contractor has violated any term of this numbered clause, the Authority may take any appropriate action available under the law or regulations to obtain redress to include, but not be limited to, requiring the Contractor to terminate any affiliation or contractual arrangement with another contractor or first-tier subcontractor at no cost to the Authority; determining the Contractor ineligible to compete for or be awarded any subsequent or "follow-on" contracts that may be based upon the Contractor’s actions under this Contract or violations of this numbered clause, or terminating this Contract, in whole or in part.

5. LOBBYING RESTRICTIONS

This section applies to all contracts of $100,000 or more.


6. CIVIL RIGHTS REQUIREMENT

This section applies to all contracts except Micro-Purchases.

Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, and Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements FTA may issue.
Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

1.) Race, Color, Religion, Sex, Sexual Orientation, Gender Identity, or National Origin - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect Construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

2.) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3.) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

The Contractor shall be responsible for ensuring that lower tier contractors and subcontractors and subagreements are in compliance with these requirements.

7. CARGO PREFERENCE - USE OF UNITED STATES FLAG VESSELS

This section applies to contracts involving equipment, materials or commodities, which may be transported by ocean vessels. These requirements do not apply to Micro-Purchases, except for Construction contracts over $2,000).
The Contractor agrees:

(a) To utilize privately owned United States-flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

(b) To furnish within twenty (20) working days following the date of loading for shipments originating within the United States or within thirty (30) working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a), above to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the Port Authority (through the contractor in the case of a subcontractor’s bill-of-lading).

(c) The Contractor agrees to include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

8. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

This section applies to Construction contracts and subcontracts. For purposes of this section, construction includes actual construction, alteration and/or repair, including decoration or painting, exceeding $2,000.

(a) The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, et seq. and 18 USC 874. The Acts apply to grantee Construction contracts and subcontracts that “at least partly are financed by a loan or grant from the Federal Government.” 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i)(5). The Acts apply to any Construction contract over $2,000. 40 USC 3142(a), 29 CFR 5.5(a.) and 2 CFR 200, Appendix II (D). ‘Construction,’ for purposes of the Acts, includes “actual Construction, alteration and/or repair, including painting and decorating.” 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (see 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below and are applicable if this Contract is a Construction contract (as delineated above) over $2,000.

(1) Minimum wages. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except
such payroll deductions as are permitted by regulations issued by the Secretary of Labor under
the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or
cash equivalents thereof) due at time of payment computed at rates not less than those contained
in the wage determination of the Secretary of Labor which is attached hereto and made a part
hereof, regardless of any contractual relationship which may be alleged to exist between the
contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section
1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to
such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section;
also, regular contributions made or costs incurred for more than a weekly period (but not less
often than quarterly) under plans, funds, or programs which cover the particular weekly period,
are deemed to be constructively made or incurred during such weekly period. Such laborers and
mechanics shall be paid the appropriate wage rate and fringe benefits on the wage
determination for the classification of work actually performed, without regard to skill, except
as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one
classification may be compensated at the rate specified for each classification for the time
actually worked therein: Provided, That the employer's payroll records accurately set forth the
time spent in each classification in which work is performed. The wage determination
(including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of
this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the
contractor and its subcontractors at the site of the work in a prominent and accessible place
where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including
helpers, which is not listed in the wage determination and which is to be employed under the
contract shall be classified in conformance with the wage determination. The contracting officer
shall approve an additional classification and wage rate and fringe benefits therefore only when
the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a
classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable
relationship to the wage rates contained in the wage determination.

(A) If the contractor and the laborers and mechanics to be employed in the classification (if
known), or their representatives, and the contracting officer agree on the classification and wage
rate (including the amount designated for fringe benefits where appropriate), a report of the
action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour
Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC
20210. The Administrator, or an authorized representative, will approve, modify, or disapprove
every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(B) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.*

(2) *Withholding.* The Port Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Port Authority may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further
payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records. (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Port Authority. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Port Authority, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the FTA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees—(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an
apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the FTA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the Port Authority, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility.** (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

9. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

This section applies to grantee contracts and subcontracts under 40 USC 3701(b)(1)(B)(iii) and (b)(2), 29 CFR 5.2(h), 49 CFR 18.36(i)(6), and 2 CFR 200, Appendix II (E) for contracts for construction, and non-construction projects that employ “laborers or mechanics on a public work, where the contract amount is greater than $100,000.

A. Overtime Requirements

No Contractor or subcontractor contracting for any part of the Contract Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such Work to Work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

B. Violation; liability for unpaid wages; liquidated damages

In the event of any violation of the clause set forth in Paragraph A of this Section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in Paragraph A of this Section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in Paragraph A of this Section.

C. Withholding for unpaid wages and liquidated damages

The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of Work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages, as provided in the clause set forth in paragraph B of this Section.

D. Subcontracts

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in Paragraphs A through D of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through D of this Section. The FTA does not require the inclusion of these requirements in subcontracts.

10. VETERANS EMPLOYMENT
Contractors working on a capital project funded using FTA assistance agree to give a hiring preference, to the extent practicable, to veterans (as defined in 5 U.S.C. 2108) who have the requisite skills and abilities to perform the Construction work required under the Contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee. The Contractor shall ensure that its hiring practices reflect the requirements of this section and shall, upon request, provide to the Authority personnel data which reflects compliance with the terms contained herein.

11. SEISMIC SAFETY

Applies only to the Construction of new buildings or additions to existing buildings. These requirements do not apply to Micro-Purchases.

The Contractor agrees that any new building or addition to an existing building will be constructed in accordance with standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify compliance to the extent required by the regulation. The Contractor also agrees to ensure that all Work performed under this Contract including Work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance. The certificate should be provided to the Engineer. The completed certification of compliance is to be submitted to the Engineer. The seismic safety standards applicable to this Contract are contained in Section 2312 ICBO Uniform Building Code (UBC), as modified by the Appendix to Title 27, Chapter 1 (Volume 7), of the Administrative Code and Charter of the City of New York at RS 9-6 Earthquake Loads.

12. ENERGY CONSERVATION

This section applies to all contracts except Micro-Purchases.

The Contractor agrees to comply with the mandatory energy efficiency standards and policies within the applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §6321 et seq. and the National Environmental Policy Act, 42 U.S.C. §4321 et seq. Accordingly, the Contractor agrees that the construction of any new building, or any addition, alteration or renovation of any existing building which materially increases the heating or cooling requirements for the building will comply with mandatory standards and policies relating to energy efficiency which are contained in 42 USC §6321 et seq., Article 11 of the New York State Energy Law and in Parts 7810 to 7815 of Title 9, Subtitle BB of the New York
Codes, Rules and Regulations. The Contractor shall be responsible for ensuring that lower tier contractors and subcontractors and subagreements are in compliance with these requirements.

13. CLEAN WATER REQUIREMENTS

This section applies to each contract and subcontract which exceeds $.

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended. For contracts and subgrants in excess of the SAT, the Contractor agrees to comply with all applicable standards, orders and regulations issued pursuant the Federal Water 33 USC §1251-1387. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor shall include the above clause in every subcontract exceeding the SAT financed in whole or in part with Federal assistance provided by the FTA and shall ensure that such provisions will be binding upon each subcontractor of any tier.

14. CLEAN AIR REQUIREMENTS

This section applies to all contracts over the SAT, including indefinite quantities where the amount is expected to exceed the SAT in any year.

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, (42 U.S.C. 7401-7671q). The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor shall include the above clause in every subcontract exceeding the SAT financed in whole or in part with Federal assistance provided by the FTA and shall ensure that such provisions will be binding upon each subcontractor of any tier.

15. FLY AMERICA

This section applies to certain contracts involving international transportation of persons or property, by air when the FTA will participate in the costs of such air transportation. These requirements do not apply to Micro-purchases.
The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that Recipients and sub recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation. The Contractor shall include the requirements of this section in all first tier subcontracts that may involve international air transportation and shall be responsible for ensuring that lower tier contractors and subcontractors are in compliance with these requirements.

16. CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

This section applies to all contracts except Micro-purchases when a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier.

The following requirements apply to the Contractor and his employees that administer any system of records on behalf of the Federal Government under any contract:

i. The Contractor agrees to comply with, and assures the compliance of his employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

ii. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

17. PREFERENCE FOR RECYCLED PRODUCTS

This section applies to all contracts over $10,000 for items designated by the EPA. The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited
to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247; and 2 CFR 200.322, Procurement of Recovered Materials. The Contractor also agrees to include the requirements of this Clause in all subcontracts exceeding $10,000 for items designated by the Environmental Protection Agency (EPA) and issued pursuant to this Contract. The Contractor shall be responsible for ensuring that lower tier contractors and subcontractors are in compliance with these requirements.

18. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

This section applies to all contracts except Micro-Purchases.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. The Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or project. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under this Contract, financed in whole or in part with federal assistance, the Federal Government reserves the right to impose the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001, or other applicable federal law to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two paragraphs in each subcontract related to this Contract. It is further agreed that paragraphs (1) and (2), above, shall not be modified, except to identify the subcontractor who will be subject to the provisions.

19. **TRANSIT EMPLOYEE PROTECTIVE REQUIREMENTS**

This section applies to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator, except for Micro-Purchases.

The Contractor agrees to comply with applicable transit employee protective requirements as follows:

- General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with
terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Contract and to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1.), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities: If the contract involves transit operations financed in whole or in part with federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth in the Grant Agreement or Cooperative Agreement with the Recipient. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, the procedures implemented by U.S. DOL or any revision thereto.

The Contractor shall include the above clause in every subcontract financed in whole or in part with Federal assistance provided by the FTA and shall ensure that such provisions will be binding upon each subcontractor of any tier.
20. ADA ACCESS REQUIREMENTS


21. BUY AMERICA

This section applies to Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than the SAT).

The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provides that federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Final assembly of rolling stock must occur in the United States and rolling stock must contain the required domestic content, as set forth in the 49 USC Section 5323(j)(C)(2), as amended by Section 3011 of the Fixing America’s Surface Transportation (FAST) Act. The Contractor shall be responsible for ensuring that lower tier contractors and subcontractors are in compliance with these requirements. Subcontracts in any amount are subject to Buy America.

A bidder or offeror must submit to the Port Authority the appropriate Buy America Certification with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America Certification must be rejected as non-responsive. This certification requirement does not apply to lower-tier subcontractors.

22. AUTHORITY OF CHIEF ENGINEER - BREACHES AND DISPUTE RESOLUTION

Inasmuch as the public interest requires that the project to which this Contract relates shall be performed in the manner which the Port Authority, acting through the Chief Engineer (or his/her designee), deems best, the Chief Engineer (or his/her designee) shall have absolute authority to determine what is or is not necessary or proper for or incidental to the portion thereof specified in the clause(s) hereof setting out the Work and any Scope of Work, Contract
Drawings and/or Specifications, as applicable shall be deemed merely his/her present determination on this point. In the exercise of this authority, he/she shall have power to alter the Scope of Work, Contract Drawings and/or Specifications as may be applicable; to require the performance of Work not required by them in their present form, even though of a totally different character from that now required; and to vary, increase and diminish the character, quantity and quality of, or to countermand, any Work now or hereafter required. Such variation, increase, diminution or countermanding need not be based on necessity but may be based on convenience.

If at any time it shall be, from the viewpoint of the Port Authority, impracticable or undesirable in the judgment of the Chief Engineer (or his/her designee) to proceed with or continue the performance of the Contract or any part thereof, whether or not for reasons beyond the control of the Port Authority, he/she shall have authority to suspend performance of any part or all of the Contract until such time as he may deem it practicable or desirable to proceed. Moreover, if at any time it shall be, from the viewpoint of the Port Authority impracticable or undesirable in the judgment of the Chief Engineer (or his/her designee) to proceed with or continue the performance of the Contract or any part thereof whether or not for reasons beyond the control of the Port Authority, he/she shall have authority to cancel this Contract as to any or all portions not yet performed and as to any materials not yet installed even though delivered. Such cancellation shall be without prejudice to the rights and obligations of the parties arising out of portions already performed, but no allowance shall be made for anticipated profits.

To resolve all disputes and to prevent litigation the parties to this Contract authorize the Chief Engineer (or his/her designee) to decide all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Contract (including claims in the nature of breach of Contract or fraud or misrepresentation before or subsequent to acceptance of the Contractor's Bid or Proposal and claims of a type which are barred by the provisions of this Contract) and his/her decision shall be conclusive, final and binding on the parties. His/her decision may be based on such assistance as he/she may find desirable. The effect of his/her decision shall not be impaired or waived by any negotiations or settlement offers in connection with the question decided, whether or not he participated therein himself, or by any prior decision of the Authority, which prior decisions shall be deemed subject to review, or by any termination or cancellation of this Contract.

All such questions shall be submitted in writing by the Contractor to the Chief Engineer (or his/her designee) for his/her decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. In any action against the Port Authority relating to any such question the Contractor must allege in its complaint and prove such submission, which shall be a condition precedent to any such action. No evidence or information shall be introduced or relied upon in such an action that has not been so presented to the Chief Engineer (or his/her designee).

This numbered clause shall be governed by and construed in accordance with the law of the State of New York, without giving effect to its choice of law provisions.
Performance During Dispute – Unless otherwise directed by the Port Authority, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Rights and Remedies – The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Authority or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing. Any violation or breach of terms of this Contract on the part of the Contractor or its subcontractors may result in the Port Authority taking action in accordance with Section 14 of the Standard Terms and Conditions, or such other action that may be necessary to enforce its rights.

23. NON-CONSTRUCTION EMPLOYEE PROTECTION CLAUSE


24. CERTIFICATION - DEBARMENT AND SUSPENSION

This section applies to all contracts and subcontracts at any level expected to equal or exceed $25,000 as well as any contract or subcontract (at any level) for federally required auditing services.

This Contract is a covered transaction for purposes of 2 CFR Parts 180 and 3000. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 2 CFR 180.995, or affiliates, as defined at 2 CFR 180.905, are excluded or disqualified as defined at 2 CFR 180.935 and 180.940.

The Contractor is required to comply with 2 CFR 180, Subpart C and must include the requirement to comply with 2 CFR 180, Subpart C in any lower tier covered transaction he enters into.

By signing and submitting its Bid, the Contractor certifies as follows:
The certification in this clause is a material representation of fact relied upon by the Port Authority of New York and New Jersey. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to the Port Authority of New York and New
Jersey, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C and 2 CFR 200, Appendix II (H) while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

• FTA requires that the Contractor, for major third party contracts, complete a certification entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion" for himself and his principals and requires each subcontractor or supplier (for subcontracts and supplier agreements expected to equal or exceed $25,000) to complete a certification entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tiered Covered Transactions" for himself and his principals. Copies of the required Certification forms and accompanying instructions are set forth following the clause herein entitled "Integrity Monitor".

• In the event that the Contractor has certified prior to award that he is not proposed for debarment, debarred, suspended, or voluntarily excluded from covered transactions by any Federal Department or agency and such certification is found to be false, this Contract may be canceled, terminated or suspended by the Authority and the Contractor will be liable for any and all damages incurred by the Authority because of such cancellation, termination or suspension because of such false certification.

• The Contractor shall obtain certifications from all known potential subcontractors and suppliers (for which payments are expected to equal or exceed $25,000) and submit such certifications to the address set forth in E below.

• Prior to the award of any subcontracts or supplier agreements expected to equal or exceed $25,000, regardless of tier, any prospective subcontractor or supplier who has not previously submitted a certification for this Contract must execute and submit to the Contractor a certification in the form set forth following the clause herein entitled "Integrity Monitor" which will be deemed a part of the resulting subcontract and supplier agreement.

• The originals of any Certifications or correspondence relating hereto shall be sent by the Contractor to the Chief Procurement Officer, 4 World Trade Center, 150 Greenwich Street – 21st Floor, New York, NY 10007.

• The Contractor shall not knowingly enter into any subcontracts or supplier agreements with a person that is proposed for debarment, debarred, suspended, declared ineligible or voluntarily excluded from covered transactions.

As required by FTA, the Contractor and his subcontractors or suppliers required to file the certification have a continuing duty to disclose, and shall provide immediate written notice to the Authority if, at any time, it learns that his certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

25. ACCESS TO RECORDS AND REPORTS

This section applies to all contracts except Micro-Purchases.
The Contractor agrees to provide the Authority, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to and the right to examine and inspect any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor also agrees, pursuant to 49 CFR 633.15, to provide the FTA Administrator or authorized representatives thereto, including any Project Management Oversight (PMO) Contractor, access to the Contractor’s records and Construction sites pertaining to a major capital project, major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period from the beginning of the Project, and through the course of the Project, until three years after the Recipient has submitted its final expenditure report and other pending matters are closed. Project closeout does not alter the record retention requirements of the FTA Master Agreement, §9.

This requirement is independent of the Authority’s requirements for record retention contained elsewhere in the specifications.
CERTIFICATION REGARDING LOBBYING PURSUANT TO 31 U.S.C. 1352
(TO BE SUBMITTED WITH EACH BID OR OFFER EXCEEDING $100,000)

I, the undersigned

(name of authorized officer) certify,

to the best of my knowledge and belief, that:

- No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, “Disclosure of Lobbying, Activities” in accordance with its instructions.

- The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by, 31, U.S. C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.
Note: Pursuant to 31 U.S.C § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure or failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801, et seq., apply to this certification and disclosure, if any.

Executed this day __________________________ of _____________, 201___

By: _______________________________________________________

Signature of Authorized Official

________________________________________________________

Official Name and Title of Authorized Official
**STANDARD FORM LLL - DISCLOSURE OF LOBBYING ACTIVITIES**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

<table>
<thead>
<tr>
<th>1. Type of Federal Action:</th>
<th>2. Status of Federal Action:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. contract</td>
<td>a. bid/offer/application</td>
</tr>
<tr>
<td>b. grant</td>
<td>b. initial award</td>
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<tr>
<td>c. cooperative agreement</td>
<td>c. post award</td>
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<tr>
<td>d. loan</td>
<td></td>
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<tr>
<td>e. loan guarantee</td>
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<tr>
<td>f. loan insurance</td>
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<tr>
<th>3. Report Type:</th>
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</thead>
<tbody>
<tr>
<td>a. initial filing</td>
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<tr>
<td>b. material change</td>
</tr>
</tbody>
</table>

**For material change only:** Year______ quarter ________ Date of last report ____________

<table>
<thead>
<tr>
<th>4. Name and Address of Reporting Entity:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime</td>
</tr>
<tr>
<td>Subawardee Tier, if known:</td>
</tr>
<tr>
<td>Congressional District, if known:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime, if known:</td>
</tr>
<tr>
<td>Congressional District, if known:</td>
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<table>
<thead>
<tr>
<th>6. Federal Department/Agency:</th>
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<table>
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<tr>
<th>7. Federal Program Name/Description:</th>
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</thead>
<tbody>
<tr>
<td>CFDA Number, if applicable: ________</td>
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<tr>
<th>8. Federal Action Number, if known:</th>
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<table>
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<tr>
<th>9. Award Amount, if known:</th>
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<td>$</td>
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<table>
<thead>
<tr>
<th>10. a. Name and Address of Lobbying Registrant</th>
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</thead>
<tbody>
<tr>
<td>(if individual, last name, first name, MI):</td>
</tr>
<tr>
<td>b. Individuals Performing Services (including address if different from No. 10a)</td>
</tr>
<tr>
<td>(last name, first name, MI):</td>
</tr>
</tbody>
</table>

**11. Information requested through this form is authorized by title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.**

Print

<table>
<thead>
<tr>
<th>Name: ____________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title: ____________________________</td>
</tr>
<tr>
<td>Telephone No.: ____________________</td>
</tr>
<tr>
<td>Date: ____________________________</td>
</tr>
</tbody>
</table>

Authorized for Local Reproduction
Standard Form - LLL (Rev. 7-97)
INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal Recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward Recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks “Subawardee,” then enter the full name, address, city, State and zip code of the prime Federal Recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States CoastGuard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., “RFP-DE-90-001.”

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding
the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS

1. The prospective lower tier participant, ________________________________, certifies by submission of this bid or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. The prospective lower tier participant shall provide immediate written notice to the Authority (and the Contractor, if applicable) if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Executed this day ______________________ of ______________________, 201_____.

____________________________________
BY SIGNATURE OF AUTHORIZED OFFICIAL

____________________________________
NAME AND TITLE OF AUTHORIZED OFFICIAL
INSTRUCTIONS FOR COMPLETION OF CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY
EXCLUSION - LOWER TIER COVERED TRANSACTIONS

1. By signing and submitting this Proposal, the prospective lower tier participant is providing
the signed certification set out on the previous page.

2. This certification is a material representation of fact upon which reliance was placed when this
transaction was entered into. If it is later determined that the prospective lower tier participant
knowingly rendered an erroneous certification, in addition to other remedies available to the
Federal Government, the Authority may pursue available remedies, including suspension and/or
debarment.

3. The prospective lower tier participant shall provide immediate written notice to the Authority if
at any time the prospective lower tier participant learns that its certification was erroneous when
submitted or has become erroneous by reason of changed circumstances.

4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered
transaction,” “participant,” “persons,” “lower tier covered transaction,” “principal,” “proposal,” and
“voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and
Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. The Proposer
may contact the Procurement Representative for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed
covered transaction be entered into, it shall not knowingly enter into any lower tier covered
transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded
from participation in this covered transaction, unless authorized in writing by the Authority.

6. The prospective lower tier participant further agrees by submitting this proposal that it
will include the “Certification Regarding Debarment, Suspension, Ineligibility and
Voluntary Exclusion - Lower Tier Covered Transaction,” without modification, in all lower
tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a
lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded
from the covered transaction, unless it knows that the certification is erroneous. A participant may
decide the method and frequency by which it determines the eligibility of its principals. Each
participant may, but is not required to, check the Nonprocurement List issued by
U.S. General Service Administration.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of
records in order to render in good faith the certification required by this clause. The knowledge and
information of a participant is not required to exceed that which is normally possessed by a
prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under sub-paragraph 5 of these instructions, if a participant
in a covered transaction knowingly enters into a lower tier covered transaction with a person who is
suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in
addition to all remedies available to the Federal Government, the Authority may pursue all
available remedies including suspension and/or debarment.

END OF FTA CONTRACT PROVISIONS
Dear CONTACT:

1. The Port Authority of New York and New Jersey (hereinafter referred to as the "Authority" or "Port Authority") hereby offers to award <FIRM NAME> (hereinafter referred to as "the Consultant" or "you") to provide the performance of expert professional architectural and engineering services for the Port Authority Bus Terminal Replacement Program on an “As-Needed” basis for 2017 through 2030 ("Services" or the “Project”) as more fully set forth in Attachment A, which is attached hereto and made a part hereof.

The Authority does not guarantee the ordering of any services under this Agreement and specifically reserves the right, in its sole discretion, to use any person or firm to perform the type of services required hereunder. For the purpose of administering this Agreement, the Authority has designated NAME, TITLE, as the Authority Representative or other such individual as hereinafter designated. The Project Manager for this project is NAME, TITLE telephone (***)(***)-****, or email address: ***@panynj.gov.

This Agreement shall be signed by you, and the Authority’s Chief Procurement Officer.

As used herein:

“Agreement” or “Contract” mean the writings setting forth the Scope of Services, terms and conditions for the procurement of Services, as defined hereunder and shall include, but not be limited to this Request for Proposals (RFP), the documents set forth in Clause 40 hereof entitled “List of Attachments and Exhibits” and, if included, any other attachments, endorsements, schedules, exhibits, or drawings, the Authority’s acceptance and any written addenda issued over the name of the Authority's Manager, Procurement Department.

“Authority Representative” means the Authority’s designee, or his/her duly authorized representative for the purpose of administering this Agreement.

“Chief Engineer” means the Chief Engineer of the Authority, or through his/her duly authorized representatives acting within the scope of the particular authority vested in him/her unless specifically stated to mean acting personally.
“Change Order” means a written modification to a Contract impacting the requirements set forth in the Agreement.

“Chief Procurement Officer” means the Chief Procurement Officer of the Authority, or his/her duly authorized representatives acting within the scope of the particular authority vested in him/her.

“Manager” means the Authority’s Program Manager or his/her designee or his/her successor in duties for the purpose of this Contract, or his/her duly authorized representative for the purpose of this Agreement.

“Port Authority of New York and New Jersey” means shall mean the Port Authority of New York and New Jersey and its subsidiaries, including PATH.

2. The base term of this Agreement is for a four (4) year period commencing on _________ (“Effective Date”). The Authority reserves the right to extend the base term of this Agreement for two (2) additional one (1)-year periods. The Authority also reserves the right to extend this Agreement for the incorporation of Optional Task(s), referenced in Attachment A. Notification of exercising Optional Task(s) shall be in writing from the Authority’s Representative, with Procurement’s concurrence.

3. Your services shall be performed as expeditiously as possible and at the time or times required by the Authority’s Representative. 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 Chief Engineer personally, in which case the requirements of said notification shall apply.

This Agreement is subject to the insurance requirements set forth in Attachment G, Insurance Requirements.

This Agreement may be funded in whole or in part by a federal agency under the U.S. Department of Transportation (USDOT). As a result, Consultant (and its subconsultant(s), regardless of tier) agree to comply with the applicable contract provisions set forth in Exhibit I of this Agreement.

5. The Consultant shall meet and consult with Authority staff as requested by the Authority’s Representative in connection with any service(s) to be performed herein. Any Contract Drawings, Technical Specifications and/or other items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Authority’s Representative. The Authority’s Representative may disapprove if, in his/her sole opinion, said items are not in accordance with the requirements of this Agreement, sound engineering principles or accepted professional standards or are impractical, uneconomical or unsuited in any way for the purpose for which the contemplated construction or services is intended. If any of the said items or any portion thereof are so disapproved, the Consultant shall forthwith revise them until they meet the approval of the
Authority’s Representative, but the Consultant will not be compensated under any provision of this Agreement for performance of such revisions. No approval or disapproval or omission to approve or disapprove, however, shall relieve the Consultant of its responsibility under this Agreement to furnish the requested services in accordance with an agreed upon schedule, a complete, practical, economical design and Contract Drawings and Technical Specifications (and corrections and changes thereto), if any, which are best suited for the contemplated construction, or services, are done in accordance with sound engineering principles and are signed and sealed by a licensed Professional Engineer.

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

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

8. You shall not continue to render services under this Agreement after the point at which the total amount to be paid to you hereunder, in accordance with Paragraph 9 below, including reimbursable expenses reaches the amount of $______ unless you are specifically authorized in writing to so continue by the Authority’s Representative. If no such authorization is issued, this Agreement shall be terminated without further obligation by either of the parties as to services not yet performed, but you shall be compensated as hereinafter provided for services already completed. It is understood, however, that this limitation shall not be construed to entitle you to the above amount as a minimum compensation.

9. As full compensation for all of your services and obligations in connection with this Agreement, the Authority will pay you the total of the amounts computed as set forth below, subject to the limits on compensation and provisions set forth in Paragraph 8 above. Subject to the terms and conditions below, travel time is not reimbursable unless approved in advance and in writing by the Authority.

A. CONSULTANT’S FIXED FEE. For Consultant’s satisfactory performance of its Services and all of its obligations in connection with this Agreement, the Port Authority shall pay to the Consultant, subject to pro-rata portion thereof due to any suspension or termination of this Agreement as permitted herein, the Consultant a fixed fee (“Fixed Fee”) in the amount of $__________. In no event shall a Change Order for additional services that are within the general scope of this Agreement, result in an increase in the Consultant’s Fixed Fee. Payment of the Consultant’s Fixed Fee will be made as a percentage of the total labor and overhead on a monthly basis, but in no event shall the total amount exceed the
total amount stated herein. Additionally, the Consultant’s Fixed Fee shall not apply to partners, principals or temporary employees of Consultant who are engaged in the performance of services to be provided herein.

B. **DIRECT PERSONNEL COSTS.** Consultant shall be reimbursed for the actual hourly rates of Consultant’s full-time employees (“Personnel”) for Services on the Project. Attached hereto are Attachment E, Staffing Analysis Sheet, and Attachment F, Pricing and Compensation, which include a schedule of the actual hourly labor rates and titles of all Consultant’s Personnel assigned to the Project that have been approved by the Port Authority, including an organizational chart showing the names and titles of all staff working on the Project.

1. The Port Authority reserves the right to audit and verify the hourly rate and time billed for the Services of each such employee. It is understood that such employee shall only bill time to the Project for work actually performed on the Project and shall not bill time to the Project for holidays, vacation days, sick leave, personal days, maternity, medical, or family leave, nor for any other item included in the Overhead Rate, as set forth below.

2. When requesting salary or billing rate adjustments for one or more of its Personnel, the Consultant shall submit employee’s name, title, current direct hourly rate or billing rate, proposed new direct hourly salary or billing rate, resulting percentage increase, effective date and reason for the requested change setting forth in detail any increased costs to the Consultant of providing the Services under this Agreement which has given rise to the request for increased salary. For adjustments submitted after the Effective Date of this Agreement, it is the intention of the Port Authority to grant an increase in pay if Consultant demonstrates compliance with all of the following conditions: that an increase in salary is (a) in accordance with the program of periodic merit increases normally administered by the Port Authority; (b) warranted by increased costs of providing Services under this Agreement; (c) based upon increases in salaries and billing rates which are generally applicable to all of Consultant’s clients; and (d) in accordance with the Authority’s salary rate increase policy for the current year for Port Authority employees possessing comparable skills and experience. If, during any calendar year, the Port Authority limits are not available to Consultant in a timely fashion, increases falling within such limits may be approved retroactively, as appropriate. The amount of increase in salary or billing rate, if any, to be applicable under this Agreement shall, therefore, in all cases, be finally determined by the Authority’s Representative, in his/her sole and absolute discretion.

C. **OVERHEAD RATE.** The overhead rate of ____% (“Overhead Rate”) shall be applied to the Direct Personnel Costs as permitted above. Computation of the Overhead Rate shall include, but not be limited to, the following indirect cost items: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses, overtime pay, premium pay, parking and car allowance, fringe benefits, retirement plans, union dues, contributions and assessments required by Law, and collective bargaining, and corporate expenses as otherwise allowed in compliance with 48

1. An Overhead Rate is applicable for a one-year accounting period (“Provisional Overhead Rate”). Ninety (90) days prior to the expiration of the applicable accounting period, the Consultant shall submit one of the following: i) a current indirect cost audit (not currently under dispute) by a cognizant federal or state government agency; ii) a new calculation by the Consultant of the Overhead Rate in accordance with this Section 9.C; or iii) the Consultant shall submit to an audit of the Overhead Rate by the Authority. Should a subsequent audit rate differ from the rate set forth in this subparagraph, said rate shall be adjusted by a contract modification.

2. The Overhead Rate shall represent reimbursement to Consultant for all other costs incurred by Consultant for such Personnel provided; however, for purposes of this Paragraph 9.C only, the term Personnel shall exclude any non-exempt personnel eligible to receive overtime pay who belong to a labor union, perform work on the project under the terms of a collective bargaining agreement and in accordance with the contract documents, and are paid wages for such work. For the avoidance of doubt, the term “Personnel” for purposes of this Section 9.C, shall include members of a labor union who are exempt from receiving overtime pay and who render superintendent services on the Project.

3. The Overhead Rate shall not apply to partners, principals or temporary employees of Consultant.

4. The Consultant’s actual Overhead Rate(s) during the term of this Agreement shall be subject to an audit by the Port Authority. The Authority reserves the right to retroactively adjust the Consultant’s compensation in the event that a final audit of overhead indicates that the actual rate applicable during the Agreement is less than the rate(s) used during the Agreement. The Consultant is responsible for monitoring its actual rates to ensure compliance with the Provisional Overhead Rate applicable at the time.

5. The Overhead Rate shall not include any element that is attributable to the Consultant’s Fixed Fee or addressed as a reimbursable expense or cost under this Agreement.

D. COST OF SUBCONSULTANTS. Consultant will be reimbursed for the costs of any subconsultants, which shall in each case include only an amount equivalent to the aggregate amount actually paid to the subconsultants by Consultant. Under no circumstances shall any subconsultant contract, at any tier, contain a cost-plus-percentage-of-cost compensation structure.

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

1. Notwithstanding the above the Authority will pay an amount approved in advance by the Authority’s Representative and computed as follows for the reproduction of submittal drawings, specifications and reports:
   a. If the Consultant uses its own facilities to reproduce such documents, an amount computed in accordance with the billing rates the Consultant customarily charges for reproduction of such documents on agreements such as this, or
   b. If the Consultant uses an outside vendor for the reproduction of such documents, the actual, necessary and reasonable amounts for the reproduction of such documents.

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

3. When the Consultant uses its employee’s personal vehicle to provide services within the Port District, the Consultant shall be reimbursed for travel expenses beyond normal commuting costs at a rate not higher than the Annual Federal Mileage Reimbursement Rate (as determined by the Internal Revenue Service) per mile traveled by auto.

4. When the Consultant is asked to provide services outside the Port District, the actual cost of coach transportation as well as the cost for hotel accommodations and meals shall be reimbursable hereunder when approved in advance in writing by the Authority’s Representative. If the Consultant chooses to travel each day to an assignment, where it would be more economical to take a hotel room near the assignment, the maximum reimbursable travel expenses shall not exceed the daily cost for meals and lodging. Reimbursable travel as provided herein shall be limited to one round trip per week’s service except when otherwise approved in advance and in writing by the Authority’s Representative. The total number of reimbursable travel hours (for travel outside the Port District) will be calculated by reducing the actual travel time by three hours. The cost for all meals and lodging on approved overnight trips are limited to the amounts established by the United States General Services Administration for that locality. See www.gsa.gov/perdiem.

5. You shall obtain the Authority’s Representative’s written approval prior to making expenditures for out-of-pocket expenses in excess of $1,000 per specific
expenditure and for all overnight trips, which are reimbursable expenditures as set forth above. You shall substantiate all billings for out-of-pocket expenses in excess of $25 with receipted bills and provide said receipts with the appropriate billing.

6. As used herein:

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

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

F. All costs under this agreement will be allowed to the extent permitted under 48 CFR Part 31.

10. CHANGES

The Authority reserves the right to make changes to the Scope of Services or schedule. The Consultant shall diligently perform all such service without delay even if the Consultant does not agree with any schedule or cost decision of Authority related to changed services. The Consultant must issue any related claim to the Authority within five (5) days of the Authority’s request to perform the change. The claim will be considered by the Authority and if accepted, in whole or part, the Authority will issue a Change Order. The provisions of the Contract relating to the services and its performance shall apply without exception to any changed or additional services required and to the performance thereof, except as may be otherwise provided by written agreement between the Authority and the Consultant. With Procurement’s concurrence, the Authority’s Representative must authorize in writing the changed or additional services and/or any change to the Amount obligated under the Contract before it is performed and before the Consultant can be reimbursed for such services.

The Consultant shall immediately notify the Authority, in writing, of any change in the Scope of Services either requested by Authority or desired by the Consultant. Such notice shall be in the form of a Change Request and shall include the estimated hours by element of work and the applicable hourly rates, overhead, other direct charges, subconsultant charges in the same detail as cost elements for the Consultant, and Fixed Fee, if any, all in accordance with the Section 9 – Compensation, as well as any proposed schedule adjustments arising from the proposed change to the Scope of Services, if any. The parties shall negotiate in good faith the proposed changes to the Scope of Services identified in the Consultant's Change Request. The amounts that the parties agree upon shall be incorporated into the Contract by issuance of a Change Order.
The Authority reserves the right to delete any item of the Work in whole or in part. Any deletion of Work must be authorized in writing by the Authority’s Representative. If an item of Work is deleted, the Fixed Fee, as set forth in the Section 9 – Compensation, shall be reduced accordingly.

11. DISPUTE RESOLUTION
To resolve all disputes and to prevent litigation, the parties to this Agreement authorize Chief Engineer to decide all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to, or on account of, this Agreement (including claims in the nature of breach of contract or fraud or misrepresentation before or subsequent to acceptance of Consultant’s proposal and claims of a type that are barred by the provisions of this Agreement). Chief Engineer’s decision with respect to any question or dispute under this Paragraph shall be conclusive, final, and binding on the parties. The decision may be based on such assistance as Chief Engineer may find desirable.

The effect of Chief Engineer’s decision with respect to any question or dispute under this Paragraph shall not be impaired or waived by any negotiations or settlement offers in connection with the question or dispute decided, whether or not Chief Engineer participated therein, or by any prior decision of the Port Authority or others, which prior decisions shall be deemed subject to review, or by any termination or cancellation of this Agreement.

All such questions or disputes under this Paragraph shall be submitted in writing by Consultant or the Port Authority to Chief Engineer for decision, together with all evidence and other pertinent information in regard to such question or dispute, in order that a fair and impartial decision may be made. The other party shall have a reasonable time to respond. The Port Authority may join any other entity to the dispute that has a valid dispute resolution agreement with the Port Authority. In any action against the Port Authority relating to any such question or dispute, Consultant must allege in its complaint and prove such submission, which shall be a condition precedent to any such action. No evidence or information shall be introduced or relied upon in such an action that has not been so presented to Chief Engineer.

12. SUBCONTRACTING - Contractor may subcontract only with the prior written consent of Port Authority, which consent may be withheld at Port Authority’s sole and absolute discretion. Every subcontract must provide that it is subject to all of the covenants, terms, provisions and conditions of this Agreement and must provide that in the event of termination or cancellation of this Agreement for any reason whatsoever, prior to the expiration of such subcontract, the subcontract will automatically terminate on the same date this Agreement is terminated or canceled. As required, the Authority reserves the right to have specific subconsultant(s) added to, or removed from this Agreement.

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

14. On or about the fifteenth day of each month, you shall render an invoice for services performed and reimbursable out-of-pocket expenses incurred in the prior month, accompanied by such records and receipts as required, to the Authority’s Representative. Each invoice shall bear your taxpayer number and the purchase order number provided by the Authority. Upon receipt of the foregoing, the Authority’s Representative will estimate and certify to the Authority the approximate amount of compensation earned by you up to that time. As an aid to you, the Authority shall, within fifteen days after receipt of such certification by the Authority’s Representative, advance to you by check the sum certified minus all prior payments to you for your account.

15. TERMINATION

a. For Cause. 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. 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 as set forth herein. 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.

b. For Convenience. In addition to all other rights of revocation or termination hereunder and notwithstanding any other provision of this Agreement, the Port Authority may terminate this Agreement and the rights of the Consultant hereunder without cause at any time upon five (5) days written notice to the Consultant and in such event this Agreement shall cease and expire on the date set forth in the notice of termination as fully and completely as though such date were the original expiration date hereof and if such effective date of termination is other than the last day of the month, the amount of the compensation due to the Consultant from the Port Authority shall be prorated when applicable on a daily basis. If termination is without fault on your part, the Authority shall pay you as the full compensation to which you shall be entitled in connection with this Agreement, the amounts computed as above set forth for services completed to the satisfaction of the Chief Engineer, through the date of termination, minus all prior payments to you. Such cancellation shall be without prejudice to the rights and obligations of the parties arising out of portions already performed but no allowance shall be made for anticipated profits.

16. 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 Authority’s Representative, provided, however that data from manufacturers and suppliers of material shall be obtained by you when you find such data necessary, unless otherwise instructed by the Authority’s Representative.
17. Any services performed for the benefit of the Authority at any time by you or on your behalf, even services in addition to those described herein, even if expressly and duly authorized by the Authority, shall be deemed to be rendered under and subject to this Agreement (unless referable to another express written, duly executed agreement by the same parties), whether such additional services are performed prior to, during or subsequent to the services described herein, and no rights or obligations shall arise out of such additional services.

18. No certificate, payment (final or otherwise), acceptance of any work nor any other act or omission of the Authority or the Authority’s Representative 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.

19. Original Contract Drawings, originals of technical specifications, estimates, reports, records, data, charts, documents, renderings, computations, computer tapes or disks, and other papers of any type whatsoever, whether in the form of writing, figures or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of the Authority, and the Authority will have the right to use or permit the use of them and of any ideas or methods represented by them for any purpose and at any time without compensation other than that specifically provided herein. The Consultant hereby warrants and represents that the Authority will have at all times the ownership and rights provided for in the immediately preceding sentence free and clear of all claims of third persons, whether such claims presently exist or arise in the future and whether they are 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, whether given 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.

20. If research or development is furnished in connection with the performance of this Agreement and if in the course of such research or development patentable subject matter is produced by the Consultant, his officers, agents, employees, or subconsultants, the Authority shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make, have made, and use, either by 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.

21. Notwithstanding anything to the contrary herein, the work product of the Consultant, its officers, agents, employees or sub-consultants, which is produced in accordance with the Agreement, whether it consists of computer programming or documentation thereof, including source code, and on any media whatsoever, shall be deemed to belong exclusively to the Authority, and the Authority will have the exclusive right to obtain and to hold in its own name any and all copyrights, patents, trade secrets and/or other proprietary rights and protection as may be produced as part of this work product, including the right to extensions or renewals, where appropriate. The work product shall not be destroyed or released to anyone outside of the Authority without express written authorization of the Authority’s Representative. 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.

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

23. This Agreement is based upon your special qualifications for the services herein contemplated, and 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 Authority’s Representative. All persons to whom you sublet services, however, shall be deemed to be your agents and no subletting or approval thereof shall be deemed to release you from your obligations under this Agreement or to impose any obligation on the Authority to such subconsultant or give the subconsultant any rights against the Authority. All subconsultant agreements of every tier must include all applicable provisions contained herein.

For each proposed subcontractor with a proposed contract value of $100,000 or more, the Contractor shall ensure that the Background Qualification Questionnaire Package (“BQQP”), available at: http://www.panynj.gov/inspector-general/inspector-general-programs.html, is completed.

24. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

This Solicitation is subject to the United States Department of Transportation regulations on Disadvantaged Business Enterprises (DBEs) contained in Part 26 of Title 49 of the Code of Federal Regulations. The requirements for the DBE Program are located in Attachment D: Disadvantaged
Business Enterprise (DBE) Program of this Solicitation. The following goal for DBE participation has been set for this Contract:

17% for firms owned and controlled by socially and economically disadvantaged individuals and certified as DBE's, as approved by the Authority.

25. NOTIFICATION OF SECURITY REQUIREMENTS

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

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

- Execution of Non-Disclosure and Confidentiality Agreements and Acknowledgments

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

- Consultant/Subconsultant identity checks and background screening

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

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

  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 Security Identification Display Area (SIDA), the federal regulatory requirements for personnel performing Work at aviation facilities and 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 can be found at [http://www.secureworker.com](http://www.secureworker.com), or S.W.A.C. may be contacted directly at (877) 522-7922 for more information and the latest pricing. The cost for said background
checks for staff that pass and are granted a credential shall be reimbursable to the Consultant (and its subconsultants) as an out-of-pocket expense as provided herein. Staff that are rejected for a credential for any reason are not reimbursable.

- Issuance of Photo Identification Credential

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

Employees may be required to produce not less than two forms of valid/current government issued identification having an official photograph and an original unlaminated social security card for identity and SSN verification. Where applicable, for sensitive security construction sites or facilities, successful completion of the application, screening and identify verification for all employees of the Consultant and subconsultant shall be completed prior to being provided a S.W.A.C. ID Photo Identification credential.

- Designated Secure Areas

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

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

- Access control, inspection, and monitoring by security guards

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

- Compliance with the Port Authority Information Security Handbook

This Agreement may require access to Authority information considered Protected Information (“PI”) as defined in the Port Authority Information Security Handbook (“Handbook”), dated October, 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. Protecting sensitive information requires the application of uniform safeguarding measures to prevent unauthorized disclosure and to control any authorized disclosure of this information within the Authority or when released by the Authority to outside entities. The Handbook can be obtained at: 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.

26. CONFIDENTIAL INFORMATION/NON-PUBLICATION

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

B. Protected Information shall mean and include collectively, as per The Port Authority of New York & New Jersey Information Security Handbook (October 15, 2008, corrected as of November 14, 2013), Confidential Information, Confidential Proprietary Information, Confidential Privileged Information and information that is labeled, marked or otherwise identified by or on behalf of the Authority so as to reasonably connote that such information is confidential,
privileged, sensitive or proprietary in nature. Confidential Information shall also include all work product that contains or is derived from any of the foregoing, whether in whole or in part, regardless of whether prepared by the Authority or a third-party or when the Authority receives such information from others and agrees to treat such information as Confidential.

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

D. The Consultant shall not issue nor permit to be issued any press release, advertisement, or literature of any kind, which refers to the Authority or to the fact that goods have been, are being or will be provided to it and/or that services have been, are being or will be performed for it in connection with this Agreement, unless the Consultant first obtains the written approval of the Authority. Such approval may be withheld if for any reason the Authority believes that the publication of such information would be harmful to the public interest or is in any way undesirable.

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 its 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.

27. 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.

28. NON-COLLUSIVE PROPOSING, AND CODE OF ETHICS CERTIFICATION, 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 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 “28G.”, 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 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.

29. 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.

30. 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.

31. 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 Chief Engineer, 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 sub-agreement entered into under this Agreement.

32. CONFLICT OF INTEREST

During the term of this Agreement, the Consultant shall not participate in any way in the preparation, negotiation or award of any agreement (other than an agreement for its own services to the Authority) to which it is contemplated the Authority may become a party, 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.

33. INTEGRITY MONITOR

In the event that the Port Authority retains or has retained an integrity monitor in connection with the Project (“Integrity Monitor”), the Consultant shall cooperate and cause its Subconsultants and the Contractors to cooperate fully with the Integrity Monitor and the Port Authority and its Inspector General, including but not limited to providing complete access to all personnel and records related to the performance of this Agreement. Failure to comply with this provision shall be a material breach of this Agreement.

34. RIGHT TO AUDIT

Notwithstanding anything to the contrary, the Authority, including its Inspector General, Audit Department and Integrity Monitor, each shall have the right to audit all of the records of the Contractor with respect to the Work and the Contract, including, without limitation, records pertaining to any compensation paid, payable, or to be paid under the Contract. The Contractor shall not be entitled to any reimbursement or other compensation for costs associated with such audit, investigation, or certification.

The Contractor agrees to pay for the cost of any audit or investigation conducted by the Authority, in which any criminal activity, ethics violations, or professional misconduct by
Contractor or any of its employees are discovered. The Contractor shall further agree that should he fail or refuse to pay for any such audit or investigation, the Authority is authorized to deduct from any sum owing the Contractor an amount equal to the cost of such audit and the damages resulting therefrom. The determination of the value of any such costs and decision to charge for or withhold any such payments are at the sole discretion of the Authority (including its Inspector General). This paragraph must be included in any agreement the Contractor enters into with any subcontractor or any other entity at any tier with respect to the Work or the Contract.

35. DEFINITIONS

As used in sections 27 -34 above, the following terms shall mean:

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

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

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

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

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

36. The entire agreement between the parties is contained herein (including all Attachments and Exhibits, as set forth in section 39 below) and no change in or modification, termination or discharge of this Agreement in any form whatsoever shall be valid or enforceable unless it is in writing and signed by the party to be charged therewith, or his/her duly authorized representative, provided, however, that termination in the manner hereinbefore expressly provided shall be effective as so provided.

37. 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.

38. 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.
39. List of Attachment/Exhibits

The following list of exhibits and attachments are annexed hereto and incorporated herein:

<table>
<thead>
<tr>
<th>Attachment A: Scope of Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attachment B: Agreement on Terms of Discussion</td>
</tr>
<tr>
<td>Attachment D: Consultant’s Disadvantaged Business Enterprise (DBE) Program</td>
</tr>
<tr>
<td>Attachment E: Staffing Analysis Sheet</td>
</tr>
<tr>
<td>Attachment F: Pricing and Compensation</td>
</tr>
<tr>
<td>Attachment G: Insurance Requirements</td>
</tr>
</tbody>
</table>

40. NOTICES. All notices, approvals and consents required or desired to be given under this Agreement shall be in writing, and shall be (i) personally delivered or (ii) transmitted by certified mail, postage prepaid, return receipt requested. Notices shall be addressed and delivered as follows:

To: Port Authority of New York and New Jersey  
Attention: (Authority’s Representative)

With a copy to: The Port Authority of New York and New Jersey  
Attention: Chief Engineer  
4 World Trade Center  
150 Greenwich Street, 19th Floor  
New York, New York 10007

and

With a copy to: The Port Authority of New York and New Jersey  
Attention: General Counsel  
4 World Trade Center, 23rd Floor  
150 Greenwich Street  
New York, New York 10007

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

42. 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
Procurement Department

Date ___________________

ACCEPTED:

FIRM NAME

By: ___________________________

Title: _________________________

Date: _________________________