

January 7, 2014

SUBJECT: REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL BROKERAGE FIRM SERVICES FOR PROPERTY, LOSS OF REVENUE AND TERRORISM INSURANCE PROGRAM FOR THE WTC SITE (2014 THROUGH 2017) (RFP #36176)

Dear Sir or Madam:

The Port Authority of New York and New Jersey (the “Authority”) is seeking proposals (“Proposals”) in response to this Request for Proposals (RFP) for a brokerage firm (the “Firm” or “Consultant”) to provide cost efficient Property, Loss of Revenue and Terrorism Insurance Program(s) as required to transition the World Trade Center (WTC) Site coverages from construction insurance to operational insurance that provides, and subsequently will provide, all risk property damage including loss of revenue and terrorism insurance protection for the site during 2014 through 2017. The Authority reserves the right to extend the resulting agreement for an additional three years, through 2020, at its sole discretion. The Authority seeks to engage a firm that has significant experience in placing the above coverages in the global insurance marketplace and that can demonstrate experience in handling complex insurance programs for comparable properties.

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

I. PROPOSER REQUIREMENTS

The Authority will consider Proposals only from firms (“Proposers”) able to demonstrate that they meet the following qualification requirements:

- A. The Firm must have been in existence for at least ten (10) years.
- B. The Firm must possess either a resident or non-resident license in both the states of New York and New Jersey. In addition, the Firm must have a surplus lines license in either state. (A copy of each license must be attached to the Proposal.)
- C. The Firm shall have successfully handled the placement of property insurance, including loss of revenue and terrorism coverage of at least \$1 Billion in Insurance Limits within the past three (3) years.
- D. The Firm must carry and provide evidence of “errors and omissions” liability insurance with a minimum limit of ten million dollars (\$10 million) per occurrence.
- E. The Firm must maintain an office in the New York metropolitan area. (Proposals must identify the office address.)
- F. The Firm must possess access to insurers in all domestic and international insurance markets including China, Bermuda, London and continental European. (Proposals must describe in a written statement describing such access and stating whether such access is through other offices of your company, correspondent brokers, or other methods.)

Firms are prohibited from contacting any insurer, insurance market, reinsurer, underwriter or underwriting group (including any insurance coverholder or broker holding underwriting authority), or any other potential financial market regarding this RFP. Failure to comply with this “no market contact” rule will result in disqualification from consideration/selection.

II. PROPOSAL FORMAT REQUIREMENTS

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

- A. To be acceptable, the Proposal shall be of no more than forty (40) pages single-sided or twenty (20) pages double-sided, using 12-point or greater font size. This limit does not include resumes, or Section III, items: A, B, G, H, I, J and K below nor section and/or tab dividers or resumes. Proposal pages shall be numbered and bound, with “Your Firm Name,” and “**RFP Number 36176**” clearly indicated on the cover.
- B. Each section of the Proposal shall be separated with a tab divider that is labeled in accordance with the letter of each of the requirements specified below in Section III.
- C. All proposals must be delivered in sealed envelopes and/or packages. Address the Proposal to: “The Port Authority of New York and New Jersey, 2 Montgomery Street, 3rd Floor, Jersey City, NJ 07302, Attention: RFP Custodian”. Do not address your Proposal to any other name. You are required to submit one (1) reproducible original and five (5) copies, along with one (1) compact disc copy, of your Proposal for review. In case of conflict, the reproducible original of the Proposal shall take precedence over material on the compact disc.
- D. In each submission to the Authority, including any return address label, information on the compact disc and information on the reproducible original and copies of the Proposal, the Proposer shall use its FULL LEGAL NAME WITHOUT ABBREVIATIONS. Failure to comply with this requirement may lead to delays in contract award and contract payments, which shall be the responsibility of the Proposer.
- E. Provide the address of your firm to which any written correspondence should be sent.
- F. Your Proposals should be forwarded in sufficient time so that the Authority receives them **no later than 2:00 p.m. on January 29, 2014.** The cover of your submittal must include the RFP Number and the RFP title, both as stated above. The Authority assumes no responsibility for delays caused by any delivery services.
- G. If your Proposal is to be hand-delivered, please note that only individuals with proper identification (e.g. photo identification) will be permitted access to the Authority’s offices. Individuals without proper identification will be turned away and their packages not accepted.

III. SUBMISSION REQUIREMENTS:

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

A. AGREEMENT ON TERMS OF DISCUSSION

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

B. TRANSMITTAL LETTER

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

1. Submit a statement indicating whether the Consultant is proposing as a single entity or a joint venture. If a joint venture, submit all information required for a single entity for each participant in the joint venture. If the Proposer is a legal entity joint venture and seeks to propose as such, the Proposer must meet the prerequisites. All the qualification information required for a single entity shall be submitted for *each* participant in the joint venture. If a common law joint venture submits a proposal, all participants in the joint venture shall be bound jointly and severally, and each participant shall execute the Proposal. If a joint venture is deemed qualified to receive an invitation to deliver a formal presentation of how it proposes to perform the Work outlined herein, the joint venture delivering the formal presentation shall be composed of the same participants as were in the joint venture when it submitted its Proposal. No substitution of participants will be allowed without the express prior written permission of the Authority.
2. Submit as part of the Proposal a copy of any written agreement, or understanding, which exists between each party to the joint venture as part of the Proposal. If no written agreement or understanding exists, the Lead Proposer shall be identified and the joint venture shall include in its Proposal a written statement explaining how the joint venture will fulfill the requirements of the Contract. Such explanation shall fully discuss and identify the responsibility of each party to the joint venture for performing the Work, and for providing the required insurance.

C. STAFF QUALIFICATIONS AND EXPERIENCE

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

For the primary account executive indicate the following:

1. Number of clients
2. Industries represented by other clients
3. Length of time with the brokerage firm
4. Length of career in insurance or risk management
5. Number of days per year expected to be spent on the Authority’s account

6. Estimate of percentage of time commitment given to each client
7. Experience with exposures similar to the Port Authority WTC site
8. References and contact information for each similar client

D. FIRM QUALIFICATIONS AND EXPERIENCE

1. For each of the accounts identified in your transmittal letter provide the following information:
 - a. Name and address
 - b. Reference contact, title and telephone number
 - c. Industry sector and types of exposure
 - d. Period of time services were provided
2. The proposer shall demonstrate a history of significant placements over the past three (3) years for *each* of the following types of exposures by completing exposures the chart below:

TYPES OF PROPERTY EXPOSURES	AVERAGE ANNUAL PROPERTY PREMIUM (\$ MILLIONS)	AVERAGE ANNUAL TERRORISM PREMIUM (\$ MILLIONS)
High Rise Office Buildings		
Transportation Facilities		
High Tech Security Facilities		

E. TECHNICAL APPROACH

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

1. Identify alternative risk financing techniques, and self-insured retentions.
2. Provide details on the analytic tools available to assist the Authority with evaluating the underwriting and purchase of the Program.
3. Describe your proposed approach to marketing and placing the Authority’s program.
4. Explain the frequency, format and goals of meetings envisioned with the Port Authority. Also, discuss how you provide ongoing services and responses to inquiries, day-to-day administration of insurance matters and consultation on policy coverage.
5. Describe the precise manner in which you shall assist the Authority in identifying risks arising from facility operations.
6. What serious problems have you encountered with clients having a high self-insured retention and what have been your solutions to these problems?
7. How do you envision your role in dealing with primary/excess insurers regarding claims?
8. What type of claims reporting procedures would you establish?

9. If any recommendation is dependent on legislative reform, changes in the commercial marketplace or involves a burgeoning insurance market, specifically identify the challenges involved or actions precedent to the concept being proposed. As part of the response, advise the Authority on the availability and appropriateness of varied insurance products and other approaches to responding to the Agency's changing exposures.
10. Describe the service capabilities of the brokerage firm as they relate to comparable properties and exposures.
11. Additional claims involvement depends on the services the brokerage firm believes it can offer the Port Authority and the additional services that the Port Authority may request. Your proposal should clearly outline where the brokerage firm can enhance claim services for the Port Authority.
12. The brokerage firm shall summarize the functionalities of any Risk Management Information Systems (RMIS) it may have that can assist the Authority. For the purpose of this proposal, RMIS needs are not mandatory, but encouraged.
13. Market Strategy - Present your insurance market strategy for each insurance program individually, to include, but not be limited to the following, in the order listed:
 - a) The most difficult insurance market issues faced by the Authority's WTC site,
 - b) Strategy(ies) for overcoming the marketing difficulties identified;
 - c) Areas where the Authority underwriting information might be expanded or revised;
 - d) The state and dynamics of the insurance markets as they pertain to Authority's WTC site market entry and terms;
 - e) Describe how you will involve the Port Authority staff in the marketing of the insurance programs.
 - f) List any major account, handled by your office, for each line of coverage, with risks comparable to or greater than the Authority's WTC site exposures. Explain how the experience of marketing each of those programs would benefit in the marketing of the Authority program.

F. MANAGEMENT APPROACH

Describe in detail the Management Approach to be taken to performance of the required services. Your Management Approach shall include, but is not limited to:

1. An organization chart that identifies the key individuals, their firm, task responsibility, and reporting relationships.
2. Identify office(s) of your organization (International and Domestic) that will have primary and secondary responsibility for this account. Indicate how your firm intends to coordinate responsibilities with the various offices.
3. Describe your firm's commitment to customer service and quality assurance.
4. Explain the quality control program of the firm.

5. Explain methods employed to assure accurate and timely receipt of policies, endorsements and billings.
6. Describe your firm's mitigation plan for ensuring that the Authority's insurance programs are accessible to the Authority in the event the Authority's offices are rendered uninhabitable due to a natural or man-made disaster or any unforeseen act. The plan shall include, but not be limited to, a detailed description of how Authority staff will have access to: program policies, appropriate contacts, and documentation related to the Authority's operational insurance programs.

G. COST PROPOSAL

Complete and submit the "Cost Proposal Form," (Attachment C). As indicated on the form, provide fixed annual fees for providing the services (as indicated in Attachment A) for the Property, Loss of Revenue and Terrorism programs.

The need for loss control services is not anticipated at this time due to use of in-house staff. However, if such services are requested in the future, indicate if there is any impact on the quoted fee structure, and if so, to what extent.

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

1. Indicate all fees, commissions, or other revenues to be earned on the Authority account to be paid by the Authority or other parties. Provide as an annual total compensation figures for all services performed, as stated above.
2. With respect to the brokerage firm's fee payable by the Authority, please supply an estimate of hours and fees by person for each program, including a matrix showing:
 - a) Each job category
 - b) Cost per hour, if applicable
 - c) Expected number of days a year servicing the account
 - d) Total annual fees per year on a lump sum basis
3. Indicate whether your firm capable of, and willing to, providing the Authority with a monthly accounting of the staff time spent on the account.
4. Provide a recent sample stewardship report.

H. M/WBE PARTICIPATION

Your attention is directed to paragraph 17 of the Authority's Standard Agreement in which the Director has stated the goals for Minority Business Enterprise participation in this project. Submit details on how you intend to meet these goals. A listing of certified MBE/WBE firms will be provided upon request, if such firms are available for the discipline(s) of work for which you intend to retain their services. If you plan to use a MBE or WBE firm that is not certified by the Authority, but which appears to meet the Authority's requirements, the firm should begin the Authority's certification process. You may propose such a firm with a statement that the firm has applied for Authority certification. Potentially certifiable MBE and WBE firms should contact the Authority's Office of Diversity and Civil Rights. Contact information and certification applications are available on the Authority's website: <http://www.panynj.gov/business-opportunities/sd-mini-profile.html>

- I. Provide a complete list of your firm's affiliates. Affiliates shall be defined as: Two (2) 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 50 percent of the voting stock of each of the firms, or if the firms have a common proprietor or general partner.

J. **BROKERAGE FIRM DISCLOSURES**

1. Provide a written statement signed by an authorized representative that the Proposer is not engaged in any illegal activities. In addition, describe the nature of any investigation by or litigation with any governmental or regulatory entity.
 2. Provide information on the Proposer's contingent commission arrangements, if any, with insurers and describe your plans to eliminate them, if any.
 3. Indicate any insurance company related entities in which the Proposer has, or expects to retain, any financial and/or legal interest.
 4. Provide a copy of the Proposer's ethics policy. Describe what processes and procedures are in place to ensure that transactions are completed in a legal and ethical manner including what measures are taken when improper business practices are identified.
 5. Provide a written statement signed by an authorized representative that discloses any known or potential conflicts of interest that could arise in connection with the Proposer's duties on this account. The Authority reserves the right to disqualify the Proposer if, in its sole discretion, any interest disclosed from any source could create, or give the appearance of, a conflict of interest. The Authority's determination regarding any question(s) of conflict of interest shall be final.
- K. The Proposer is expected to agree with the standard agreement and its terms and conditions. You should therefore not make any changes in this standard agreement, nor restate any of its provisions in your Proposal or supporting material. However, if the Proposer has any specific exceptions, such exceptions should be set forth in a 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. SELECTION PROCESS:

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

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

V. ORAL PRESENTATIONS:

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

VI. 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>. Proposers are responsible for periodically checking the Authority website at <http://www.panynj.gov/business-opportunities/bid-proposal-advertisements.html?tabnum=6> for RFP updates and addenda if any.

If your firm is selected for performance of the subject services, the Agreement you will be asked to sign, at that time, will include clauses entitled "Certification of No Investigation (Criminal Or Civil Anti-Trust), Indictment, Conviction, Debarment, Suspension, Disqualification and Disclosure Of Other Information" And "Non-Collusive Proposing And Code Of Ethics Certification; Certification Of No Solicitation Based On Commission, Percentage, Brokerage, Contingent Or Other Fees" (see paragraphs 20-21 of the form of Agreement). By submitting a Proposal, the Firm shall be deemed to have made the certifications contained therein unless said Firm submits a statement with his Proposal explaining why any such certification(s) cannot be made. Such a submission shall be submitted in a separate envelope along with your Proposal, clearly marked "CERTIFICATION STATEMENT."

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

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

Should you have any questions, or to request access to information and/or materials that are not available on the Authority's website, please contact Mr. David Gutiérrez, by email at david.gutierrez@panynj.gov. All such correspondence must have your name, title, company, mailing address, telephone number and state "**RFP #36176**" in the subject line. The Authority must receive all questions no later than 4:00 P.M., seven (7) calendar days before the RFP due date. Neither Mr. Gutiérrez 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. The Authority shall have no obligation to a firm except under a duly authorized agreement executed by the Authority and no rights shall accrue to any Proposer except under a duly authorized agreement for performance of the specified services.

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

Sincerely,

Tim Volonakis
Assistant Director
Procurement Department

Attachments

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL BROKER SERVICES FOR PROPERTY, LOSS OF REVENUE AND TERRORISM INSURANCE PROGRAMS FOR THE WTC - SITEWIDE

I. BACKGROUND

The Port Authority of New York and New Jersey (the “Authority”) is a municipal corporate instrumentality and political subdivision of the States of New York and New Jersey, created and existing by virtue of the Compact of April 30, 1921, made by and between the two States, and thereafter consented to by the Congress of the United States. It is charged with providing transportation, terminal and other facilities of trade and commerce within the Port District. The Port District comprises an area of about 1,500 square miles in both States, centering about New York Harbor. The Port District includes the Cities of New York and Yonkers in New York State, and the cities of Newark, Jersey City, Bayonne, Hoboken and Elizabeth in the State of New Jersey, and over 200 other municipalities, including all or part of seventeen counties, in the two States. The Port Authority manages and/or operates all of the region’s major commercial airports (Newark Liberty International, John F. Kennedy International, Teterboro, LaGuardia and Stewart International Airports), marine terminals in both New Jersey and New York (Port Newark and Elizabeth, Howland Hook and Brooklyn Piers); and its interstate tunnels and bridges (the Lincoln and Holland Tunnels; the George Washington, Bayonne, and Goethals Bridges; and the Outerbridge Crossing), which are vital “Gateways to the Nation.” The Authority is responsible for the development and operations of certain properties at the World Trade Center Site (the “WTC-Site” or “WTC”).

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

The Authority’s Treasury Department includes a Risk Financing Division that is responsible for preserving the Authority’s financial, physical and human assets and resources by developing and administering risk transfer, retention and reduction policies, programs and techniques. Risk Financing administers a complex insurance and self-insurance portfolio, which requires worldwide insurance capacity. In carrying out this responsibility, centralized internal controls and evaluation processes are maintained in order to effectively assess the Port Authority’s loss-bearing capacity and its exposure to financial and physical loss. Further information can be found in the Port Authority’s annual report available on the Authority’s website. In coordination with the Treasury Department, the Authority’s Law Department evaluates and responds to reports of accidents; negotiates and settles claims based on assessments of potential liability; undertakes and completes on-site investigations through statements, research and analysis; and is responsible for representing the Authority in all claims-related litigation.

On October 16, 2006, the Insurance Department of the District of Columbia approved the establishment of the Authority's captive insurance company, known as the "Port Authority Insurance Captive Entity LLC" ("PAICE"), for the purpose of insuring certain risk exposures of the Port Authority and its wholly owned entities. Under its current Certificate of Authority, PAICE is authorized to transact insurance business in connection with worker's compensation, general liability, builder's risk, property, and terrorism insurance coverage for the Authority and its wholly owned entities. With the passage of the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA), PAICE assumed coverage for acts of domestic terrorism with respect to the Authority's public liability and property damage and loss of revenue insurance programs in addition to the previously provided coverage for acts of foreign terrorism. In addition, as of December 31, 2012, PAICE is providing the first \$1,000,000 in coverage under the Workers' Compensation portion, and the first \$500,000 in coverage under the general liability aspect of the Port Authority's contractor's insurance program. As of December 31, 2012, PAICE is providing \$1 billion of Builders Risk and Terrorism coverage for the WTC Owner Controlled Insurance Program, which is 100% reinsured through the commercial insurance marketplace and TRIPRA. As of October 27, 2013, PAICE is providing \$2,000,000 of the first \$50 million in coverage under the Port Authority's general coverage public liability insurance program for "non-aviation" facilities.

Effective from June 1, 2013 through June 1, 2014, the Authority's property damage including loss of revenue insurance program (excluding the WTC) provides for coverage as follows:

Property and Loss of Revenue: \$1.359 Billion for all facilities (excluding the WTC site and Terrorism)

Windstorm Coverage - \$375 Million

Flood Coverage - \$175 Million

Earthquake - \$100 Million

Self Insured Retention (SIR) - \$25 Million

Deductible - \$5 Million

Terrorism Coverage - \$1.518 Billion for all facilities (excluding the WTC)

SIR - \$25 Million

Deductible - \$5 Million

II. SCOPE OF WORK

The services of the Consultant (Brokerage Firm) shall generally consist of the marketing, placement and administration of the Port Authority WTC Site property insurance, including loss of revenue and terrorism programs, for 1 WTC and various other properties located at the WTC Site. Properties on site included under these insurance programs are as follows:

A. 1 World Trade Center:

2.9 million SF, 71 office floors/Office Tower includes the Observation Deck and Antenna

- Property Value - \$3.03 Billion
- Estimated gross annual revenues 2015 - \$83.1 Million
- Policy Effective date: 3/31/14

B. WTC Central Chiller Plant:

82K SF Plant supplying air conditioning to Transportation Hub, Memorial and Retail

- Effective Date: TBD
- Property Value - \$350 Million

C. Vehicle Security Center:

466K SF Vehicle Security Center for the entire site.

- Effective Date: Second quarter of 2014
- Property Value including Contents - \$1.04 Billion

D. East West Connector:

32K SF underground walkway connecting the World Financial Center with the WTC

- Effective Date: 6/1/14
- Property value - \$250 Million

E. Liberty Park:

57 K SF of public park

- Effective Date: Fourth Quarter of 2014
- Property Value - \$98.7 Million

F. Transportation Hub:

556 K SF

The Transportation Hub's concourse connects visitors to 11 different subway lines, the Port Authority Trans-Hudson (PATH) rail system, Battery Park City Ferry Terminal, the World Trade Center Memorial Site, WTC Towers 1, 2, 3, and 4, the World Financial Center and the Winter Garden. For purposes of this program, this property excludes the related retail space.

- Effective Date: Fourth Quarter of 2015
- Property value - \$3.6 Billion
- Estimate revenues for 2015 - \$71.2 Million

G. Common Areas:

297 K SF includes security, utilities, streets, parking, campus security

- Effective Date: Second to fourth quarter of 2014
- Property value – \$1.85 Billion

III. DESCRIPTION OF BROKERAGE FIRM TASKS

Tasks to be performed by the Brokerage firm shall include, but are not limited to:

TASK A. PROGRAM DEVELOPMENT

1. Act as liaison with insurers and allow the Authority direct access to the worldwide underwriting community in order to effectively and efficiently market the programs.
2. Assess and evaluate risks that can arise from Authority operations under each of the operational insurance programs.

3. Advise the Authority on the availability and appropriateness of insurance products to respond to changing exposures.
4. Assess and evaluate alternative risk financing mechanisms with respect to premiums and operations.

TASK B. PROGRAM MANAGEMENT

1. Prepare, and update, as required, an insurance policy summary/register.
2. Verify correctness of all policies, endorsements, and carrier billings.
3. Monitor insurance company services and financial security of all participating carriers.
4. Immediately notify the Authority if any carrier on either program has been downgraded by A. M. Best or is on a negative watch. Present your strategy to replace the affected carrier in a report for review by the Authority within 15 calendar days of notification to the Authority.
5. Prepare and issue required insurance certificates in accordance with standards, procedures, and specifications to be provided by the Authority. Provide quarterly status reports on claims reported to the insurers with appropriate action recommendations.
6. Allocate and direct bill premiums and premium adjustments to the Authority or PAICE, as directed by the Authority.
7. Resolve coverage questions/disputes in a timely and amicable fashion.
8. Monitor insurance company claims services.
9. Provide scheduled, periodic review of service status, program parameters and records with the Director of the Authority's Treasury Department or his/her duly authorized representative.
10. Prepare an annual draft stewardship report providing a description of accomplishments, goals, and insurance trends. Submit the report to the Authority for review and incorporate any comments. Resubmit the report to the Authority within 30 calendar days as final.
11. Provide biannual industry specific insurance market update reports, including, but not limited to:
 - a) Summary of the insurance market attitude or concerns towards public entities and the transportation industry.
 - b) Identification of new markets, recent losses, staffing changes and treaty renewal information, as available.
 - c) Discussion of changes in insurers coverage forms, limit capacities and philosophies (as applicable).

TASK C. PROGRAM RENEWAL

1. Prior to the renewal of the programs, meet with the Authority to discuss the renewal goals and strategy.
2. Based on the results of the pre-renewal meeting, develop annual renewal specifications.
3. Prepare and distribute underwriting submissions to all global markets in a timely manner.

4. Create and maintain an annual service-planning calendar and develop renewal proposals in conformity with the time frame specified by the Authority Board of Commissioners and staff for each program.
5. Provide a comprehensive review of policy forms and endorsements at renewal for accuracy and to identify any enhancements to coverage for each operational program.
6. Notify the Authority of any identified “gaps” in coverage and/or inadequate coverage.
7. Transmit completed renewal policies and binders within 90 days of the renewal date. Binders shall be submitted in one cohesive book.

TASK D. ADDITIONAL SERVICES

When directed by the Authority, the Brokerage Firm shall:

1. Provide presentations to the Authority’s Board of Commissioners, and others, on issues relating to the renewal, coverage, and market updates of the insurance programs.
2. Provide interpretation and analysis of specific coverage issues.
3. Prepare insurance data for audits.
4. Review claims for their validity, monitor potentially fraudulent claims, and provide notice to excess carriers on the programs.
5. Review specific claims as required.
6. Conduct property surveys at specified Authority facilities.
7. Actively participate in the settlement of large claims.

IV. COMMERCIAL LIABILITY INSURANCE AND WORKERS’ COMPENSATION INSURANCE PROVIDED BY THE CONSULTANT

A. Commercial Liability Insurance:

- 1) The Consultant shall take out and maintain at his own expense Commercial General Liability Insurance including but not limited to Premises-Operations, Completed Operations and Independent Contractor coverages in limits of not less than \$5,000,000 combined single limit per occurrence for Bodily Injury Liability and Property Damage Liability. And if vehicles are to be used to carry out the performance of this contract, then the Consultant shall also take out, maintain and pay the premiums on Automobile Liability Insurance covering all owned, non-owned and hired autos in not less than \$5,000,000 combined single limit per accident for bodily injury and property damage. In addition, the policy (ies) shall include the Authority and its wholly owned entities as an additional insured as per **schedule 1** below and the policy (ies) and **its certificate must be specifically endorsed to contain a provision 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 Contractor's insurance shall be primary insurance as respects to the above additional insured (s), its representatives, officials, and employees. Any insurance or self insurance maintained by the above additional insured (s) shall not contribute to any loss or claim. These insurance requirements shall be in effect for the duration of the contract to include any warrantee/guarantee period.

Further, the certificate of insurance and the liability Policy (ies) shall be specifically endorsed that ***“The insurance carrier(s) shall not, without obtaining the express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the Tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority”***

- 2) **Additional Coverages:** The Consultant shall have the policy endorsed when required by the Project Manager for specific services hereunder and include the additional premium cost thereof as an out-of-pocket expense:
 - (a) Endorsement to eliminate any exclusions applying to the underground property, explosion and collapse hazards.
 - (b) Endorsement to eliminate any exclusions on account of ownership, maintenance, operation, use, loading or unloading of watercraft.
 - (c) Coverage for work within 50 feet of railroad

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
- 2) **Additional Coverages:** The Consultant shall have the policy endorsed when required by the Engineer for specific services hereunder and include the additional premium cost thereof as an out-of-pocket expense:
 - 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) Amendments to Coverage B, Federal Employers' Liability Act in limits of not less than \$1,000,000 per occurrence.

C. Professional Liability Insurance:

- 1) Not less than \$10,000,000 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 form or may be written on a claims-made basis with a minimum of a three-year reporting/discovery period.

D. Compliance:

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

- 1) Renewal certificates of insurance or policies shall be delivered to the Facility Contractor Administrator, Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy. The General Manager, Risk Financing must approve the renewal certificate(s) of insurance before work can resume on the facility. If at any time any of the certificates or policies shall become unsatisfactory to the Port Authority, the Contractor shall promptly obtain a new and satisfactory certificate and policy.
- 2) If at any time the above liability insurance should be canceled, terminated, or modified so that the insurance is not in effect as above required, then, if the Manager shall so direct, the Contractor shall suspend performance of the contract at the premises. If the contract is so suspended, no extension of time shall be due on account thereof. If the contract is not suspended (whether or not because of omission of the Manager to order suspension), then the Authority may, at its option, obtain insurance affording coverage equal to the above required, the cost of such insurance to be payable by the Contractor to the Port Authority.
- 3) The requirements for insurance procured by the Consultant shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Consultant under this contract. The insurance requirements are not a representation by the Authority as to the adequacy of the insurance to protect the Consultant against the obligations imposed on them by law or by this or any other Contract.

Schedule 1 – Indemnitees and Additional Insureds:

- a) The Port Authority of New York and New Jersey
- b) WTC Retail LLC
- c) 1 World Trade Center LLC
- d) The Port Authority Trans-Hudson Corporation
- e) NYS Department of Transportation
- f) Silverstein Freedom Tower Development LLC, and its Affiliates
- g) 2 World Trade Center LLC
- h) 3 World Trade Center LLC
- i) 4 World Trade Center LLC
- j) World Trade Center Properties LLC
- k) Silverstein Properties, Inc.
- l) Silverstein East WTC Facility Manager LLC
- m) WTC Redevelopment LLC

- n) WTC Investors LLC
 - o) Net Lessees' Association of the World Trade Center
 - p) WTC Management and Development LLC
 - q) Silverstein WTC Management and Development LLC
 - r) WTC Investors Management and Development LLC
 - s) The City of New York
 - t) The Lower Manhattan Development Corporation
 - u) The World Trade Center Memorial Foundation
 - v) Metropolitan Transportation Authority
 - w) New WTC Retail JV LLC
4. Prior to commencement of work at the site, the Broker shall deliver two copies of a certificate from its insurer evidencing the policies of the above insurance, stating the title of this Agreement, the agreement number, and containing a separate express statement of compliance with each of the requirements above set forth in this clause, one copy to each of the Risk Financing Division representatives at the following addresses:
- | | |
|--|--|
| The Port Authority of NY & NJ
225 Park Avenue South, 12 Floor
New York, NY. 10006
Manager, Risk Financing | The Port Authority of NY & NJ
Boris Pisman, CPCU, ARM |
|--|--|
5. Upon request of the Manager, Risk Management Division, the Broker shall furnish to the Authority a certified copy of each policy itself, including the provisions establishing premiums.

* * *

ATTACHMENT B

**REQUEST FOR PROPOSALS FOR THE PERFORMANCE
OF EXPERT PROFESSIONAL BROKERAGE FIRM SERVICES FOR PROPERTY,
LOSS OF REVENUE AND TERRORISM INSURANCE PROGRAM
FOR THE WORLD TRADE CENTER SITE (2014 THROUGH 2017)
(RFP #36176)**

AGREEMENT ON TERMS OF DISCUSSION

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

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

(Company)

(Signature)

(Title)

(Date)

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

ATTACHMENT C
COST PROPOSAL FORM

**PERFORMANCE OF EXPERT PROFESSIONAL BROKERAGE FIRM
SERVICES FOR PROPERTY, LOSS OF REVENUE AND TERRORISM
INSURANCE PROGRAM FOR THE WTC SITE**

RFP #36176

1 WORLD TRADE CENTER

<u>PROGRAM</u>	<u>CONTRACT YEAR</u>	<u>ANNUAL FEE</u>
Property Including Loss of Revenue Program	Base Term – Year One (March, 2014 -December 31, 2015)	\$
Property and Loss of Revenue Program	Base Term – Year Two (January 1, 2016 – December 31, 2016)	\$
Property and Loss of Revenue Program	Base Term – Year Three (January 1, 2017 – December 31, 2017)	\$
Total Proposed Fee: (3-year Base Term)	<u>March 31, 2014 – December 31, 2017</u>	\$ _____
Property and Loss of Revenue Program	Renewal Option Term – Year One (January 1, 2018 – December 31, 2018)	\$
Property and Loss of Revenue Program	Renewal Option Term – Year Two (January 1, 2019 – December 31, 2019)	\$
Property and Loss of Revenue Program	Renewal Option Term – Year Three (January 1, 2020 – December 31, 2020)	\$
Total Proposed Fee: (3-year Renewal Option)	January 1, 2018 – December 31, 2020	\$

**PERFORMANCE OF EXPERT PROFESSIONAL BROKERAGE FIRM
SERVICES FOR PROPERTY, LOSS OF REVENUE AND TERRORISM
INSURANCE PROGRAM FOR THE WTC SITE**

RFP #36176

SITE WIDE EXCLUDING 1 WORLD TRADE CENTER

<u>PROGRAM</u>	<u>CONTRACT YEAR*</u>	<u>ANNUAL FEE</u>
Property and Loss of Revenue Program Site-wide	Base Term – Year One (June 1 2014 – December 31, 2015)	\$
Property and Loss of Revenue Program	Base Term – Year Two (January 1, 2016 – December 31, 2016)	\$
Property and Loss of Revenue Program	Base Term – Year Three (January 1, 2017 – December 31, 2017)	\$
Total Proposed Fee: (3-year Base Term)	<u>June 1, 2014 – December 31, 2017</u>	\$ _____
Property and Loss of Revenue Program	Renewal Option Term – Year One (January 1, 2018 – December 31, 2018)	\$
Property and Loss of Revenue Program	Renewal Option Term – Year Two (January 1, 2019 – December 31, 2019)	\$
Property and Loss of Revenue Program	Renewal Option Term – Year Three (January 1, 2020 – December 31, 2020)	\$
Total Proposed Fee: (3-year Renewal Option)	January 1, 2018 – December 31, 2020	\$ _____

**PERFORMANCE OF EXPERT PROFESSIONAL BROKERAGE FIRM
SERVICES FOR PROPERTY, LOSS OF REVENUE AND TERRORISM
INSURANCE PROGRAM FOR THE WTC SITE**

RFP #36176

TERRORISM LIABILITY - SITE WIDE

<u>PROGRAM</u>	<u>CONTRACT YEAR</u>	<u>ANNUAL FEE</u>
Terrorism Liability	Base Term – Year One (March 31, 2014 – February 28, 2015)	\$
Terrorism Liability	Base Term – Year Two (March 31, 2015 – February 29, 2016)	\$
Terrorism Liability	Base Term – Year Three (March 31, 2016 – February 28, 2017)	\$
Total Proposed Fee: (3-year Base Term)	<u>March 31, 2014 – February 28, 2017</u>	\$ _____
Terrorism Liability	Renewal Option Term – Year One (March 31, 2017 – February 28, 2018)	\$
Terrorism Liability	Renewal Option Term – Year Two (March 31, 2018 – February 28, 2019)	\$
Terrorism Liability	Renewal Option Term – Year Three (March 31, 2019 – February 29, 2020)	\$
Total Proposed Fee: (3-year Renewal Option)	March 31, 2017 – February 29, 2020	\$ _____

P.A. Agreement #TRS-14-00*

Date

Name of Firm

Address 1

Address 2

City, State ZIP

Attention: Contact, Title

SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL BROKERAGE FIRM SERVICES FOR PROPERTY, LOSS OF REVENUE AND TERRORISM INSURANCE PROGRAM FOR THE WTC SITE (2014 THROUGH 2017)

Dear Contact:

1. The Port Authority of New York and New Jersey (hereinafter, the "Authority") hereby offers to retain *****, (hereinafter, "the Consultant" or "you") effective MONTH *, 2014 to provide expert professional services (hereinafter, "Services") as more fully set forth in Attachment A, which is attached hereto and made a part hereof.

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

The Project Manager for this project is ****, at (***) ***-****, or e-mail address ****@panynj.gov.

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

4. In 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 receives a written notification to the contrary signed by the Director personally, in which case the requirements of said notification shall apply.

5. The Consultant shall meet and consult with Authority staff as requested by the Director in connection with the Services to be performed herein. All items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Director. The Director may

disapprove, if in her sole opinion said items are not in accordance with the requirements of this Agreement or professional standards. If any of the said items or any portion thereof are so disapproved, the Consultant shall forthwith revise them until they meet the approval of the Director, but the Consultant shall not be compensated under any provision of this Agreement for performance of such revisions. No approval or disapproval or omission to approve or disapprove, however, shall relieve the Consultant of its responsibility under this Agreement to furnish the requested Services in accordance with an agreed upon schedule and in accordance with professional standards.

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

A. The following lump sum amounts, paid to you in equal payments on a quarterly basis, for each year of the Agreement:

1) Property and Loss of Revenue Program - 1 WTC

* Year One - \$***** billed quarterly at \$*****

* Year Two - \$***** billed quarterly at \$*****

* Year Three - \$***** billed quarterly at \$*****

Option years:

* Year Four - \$***** billed quarterly at \$*****

* Year Five - \$***** billed quarterly at \$*****

* Year Six - \$***** billed quarterly at \$*****

2) Property and Loss of Revenue Program Site Wide (Excluding 1 WTC)

* Year One - \$***** billed quarterly at \$*****

* Year Two - \$***** billed quarterly at \$*****

* Year Three - \$***** billed quarterly at \$*****

Option years:

* Year Four - \$***** billed quarterly at \$*****

* Year Five - \$***** billed quarterly at \$*****

* Year Six - \$***** billed quarterly at \$*****

3) Terrorism Liability

* Year One - \$***** billed quarterly at \$*****

* Year Two - \$***** billed quarterly at \$*****

* Year Three - \$***** billed quarterly at \$*****

Option years:

* Year Four - \$***** billed quarterly at \$*****

* Year Five - \$***** billed quarterly at \$*****

* Year Six - \$***** billed quarterly at \$*****

B. An amount equal to the amounts actually paid to subconsultants for work performed in connection with this Agreement. Provided, however, that Subconsultants, and the compensation paid thereto, require advance written approval from the Director. The Consultant shall submit a copy of the terms and conditions of the subconsultant's compensation as part of any request for approval of the subconsultant.

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.

7. You shall render an invoice for Services to the Project Manager thirty (30) days prior to the inception date of each individual quarter of the year under the Agreement to provide the Authority sufficient time to process payment in a timely manner. Each invoice shall bear your taxpayer number and the purchase order number(s) as provided by the Authority. Upon receipt of the foregoing, the Project Manager will certify to the Authority that the amount of compensation is correct. The Authority will, within fifteen days after receipt of such certification by the Project Manager, pay to you by check the sum certified.

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

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

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

10. Under no circumstances shall you or your subconsultants communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instructions of the Director, provided, however, that data from

manufacturers and suppliers of material shall be obtained by you when you find such data necessary unless otherwise instructed by the Director.

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

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

13. Originals of estimates, reports, records, data, charts, documents, renderings, computations, computer tapes or disks, and other papers of any type whatsoever, whether in the form of writing, figures or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of the Authority, and the Authority shall have the right to use or permit the use of them and any ideas or methods represented by them for any purpose and at any time without compensation other than that specifically provided herein. The Consultant hereby warrants and represents that the Authority will have at all times the ownership and rights provided for in the immediately preceding sentence free and clear of all claims of third persons whether presently existing or arising in the future and whether presently known to either of the parties of this Agreement or not. This Agreement shall not be construed, however, to require the Consultant to obtain for the Consultant and the Authority the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless owned by the Consultant, or subconsultant, or an employee of either. Whether or not your Proposal is accepted by the Authority, it is agreed that all information of any nature whatsoever which is in any way connected with the Services performed in connection with this Agreement, regardless of the form of which has been or may be given by you or on your behalf, whether prior or subsequent to the execution of this Agreement, to the Authority, its Commissioners, officers, agents or employees, is not given in confidence and may be used or disclosed by or on behalf of the Authority without liability of any kind, except as may arise under valid existing or pending patents, if any.

14. If research or development is furnished in connection with the performance of this Agreement and if in the course of such research or development patentable subject matter is produced by the Consultant, his officers, agents, employees, or subconsultants, the Authority shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make, have made, and use, either itself or by anyone on its behalf, such subject matter in connection with any activity now or hereafter engaged in or permitted by the Authority. Promptly upon request by the Authority, the Consultant shall furnish or obtain from the appropriate person a form of license satisfactory to the Authority, but it is expressly understood

and agreed that, as between the Authority and the Consultant the license herein provided for shall nevertheless arise for the benefit of the Authority immediately upon the production of said subject matter, and shall not await formal exemplification in a written license agreement as provided for above. Such license agreement may be transferred by the Authority to its successors, immediate or otherwise, in the operation or ownership of any real or personal property now or hereafter owned or operated by the Authority but such license shall not be otherwise transferable.

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

16. This Agreement being based upon your special qualifications for the Services herein contemplated, any assignment, subletting or other transfer of this Agreement or any part hereof or of any moneys due or to become due hereunder without the express consent in writing of the Authority shall be void and of no effect as to the Authority. 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.

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

"Minority group" means any of the following racial or ethnic groups:

A. Black persons having origins in any of the Black African racial groups not of Hispanic origin;

B. Hispanic persons of Puerto Rican, Mexican, Dominican, Cuban, Central or South American culture or origin, regardless of race;

C. Asian and Pacific Islander persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands;

D. American Indian or Alaskan Native persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.

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

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

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

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

18. NOTIFICATION OF SECURITY REQUIREMENTS

The Authority has facilities, systems, and projects where terrorism or other criminal acts may have a significant impact on life safety and key infrastructures. 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, as determined by the Authority. These security requirements may include but are not limited to the following:

- Consultant/subconsultant identity checks and background screening, including but not limited to: inspection of not less than two forms of valid/current government issued identification (at least one having an official photograph) to verify staff's name and residence; screening federal, state, and/or local criminal justice agency information databases and files; screening of any terrorist identification files; multi-year check of personal, employment and/or credit history; access identification to include some form of biometric security methodology such as fingerprint, facial or iris scanning, or the like;
- Requiring that the Consultant/subconsultant execute a Non-Disclosure and Confidentiality Agreement regarding the disclosure of Confidential Information;
- Issuance of Photo Identification cards;
- Access control, inspection, and monitoring by security guards.

The Consultant may be required to have its staff, and any sub-consultant's staff, authorize the Authority or its designee to perform background checks. Such authorization shall be in a form acceptable to the Authority. The Consultant may also be required to use an organization designated by the Authority to perform the background checks. The cost for said background checks shall be reimbursable to the Consultant as an out-of-pocket expense as provided herein.

The Authority may impose, increase, and/or upgrade security requirements for the Consultant and its staff and subconsultants during the term of this Agreement to address changing security conditions and/or new governmental regulations.

19. The Consultant assumes the following distinct and several risks to the extent arising from the negligent or willful intentional acts or omissions of the Consultant or its subconsultants in the performance of Services hereunder:

A. The risk of loss or damage to Authority property arising out of or in connection with the performance of Services hereunder;

B. The risk or loss or damage to any property of the Consultant or its subconsultants arising out of or in connection with the performance of Services hereunder;

C. The risk of claims, arising out of or in connection with the performance of Services hereunder, whether made against the Consultant or its subconsultants or the Authority, for loss or damage to any property of the Consultant's agents, employees, subcontractors, sub-consultants, materialmen or others performing Services hereunder;

D. The risk of claims, just or unjust, by third persons made against the Consultant or its subconsultants or the Authority on account of injuries (including wrongful death), loss or damage of any kind whatsoever arising in connection with the performance of Services hereunder including claims against the Consultant or its subconsultants or the Authority for the payment of workers' compensation, whether such claims are made and whether such injuries, damage and loss are sustained at any time both before and after the completion of Services hereunder.

The Consultant shall indemnify the Authority against all claims described in subparagraphs A through D above and for all expense incurred by it in the defense, settlement or satisfaction thereof, including expenses of attorneys. If so directed, the Consultant shall defend against any claim described in subparagraphs B, C and D above, in which event the Consultant shall not without obtaining express advance permission from the General Counsel of the Authority raise any defense involving in any way jurisdiction of the tribunal, immunity of the Authority, governmental nature of the Authority or the provisions of any statutes respecting suits against the Authority, such defense to be at the Consultant's cost.

The provisions of this clause shall also be for the benefit of the Commissioners, officers, agents and employees of the Authority, so that they shall have all the rights which they would have under this clause if they were named at each place above at which the Authority is named, including a direct right of action against the Consultant to enforce the foregoing indemnity, except, however, that the Authority may at any time in its sole discretion and without liability on its part cancel the benefit conferred on any of them by this clause, whether or not the occasion for invoking such benefit has already arisen at the time of such cancellation.

Neither the completion of Services hereunder nor the making of payment (final or otherwise) shall release the Consultant from his obligations under this clause. Moreover, neither the enumeration in this clause or the enumeration elsewhere in this Agreement of particular risks assumed by the Consultant or of particular claims for which he is responsible shall be deemed (a) to limit the effect of the provisions of this clause or of any other clause of this Agreement relating to such risks or claims, (b) to imply that he assumes or is responsible for risks or claims only of the type enumerated in this clause or in any other clause of this Agreement, or (c) to limit the risks which he would assume or the claims for which he would be responsible in the absence of such enumerations.

No third party rights are created by the Agreement, except to the extent that the Agreement specifically provides otherwise by use of the words "benefit" or "direct right of action".

Inasmuch as the Authority has agreed to indemnify the Cities of New York and Newark against claims of the types described in subparagraph D above made against said cities, the Consultant's obligation under subparagraph D above shall include claims by said cities against the Authority for such indemnification.

20. CERTIFICATION OF NO INVESTIGATION (CRIMINAL OR CIVIL ANTI-TRUST), INDICTMENT, CONVICTION, DEBARMENT, SUSPENSION, DISQUALIFICATION AND DISCLOSURE OF OTHER INFORMATION

By proposing on this Agreement, each Consultant and each person signing on behalf of any Consultant certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, that the Consultant and each parent and/or affiliate of the Consultant has not:

- A. been indicted or convicted in any jurisdiction;
- B. been suspended, debarred, found not responsible or otherwise disqualified from entering into any agreement with any governmental agency or been denied a government agreement for failure to meet standards related to the integrity of the Consultant;
- C. had an agreement terminated by any governmental agency for breach of agreement or for any cause based in whole or in part on an indictment or conviction;
- D. ever used a name, trade name or abbreviated name, or an Employer Identification Number different from those inserted in the Proposal;
- E. had any business or professional license suspended or revoked or, within the five years prior to proposal opening, had any sanction imposed in excess of \$50,000 as a result of any judicial or administrative proceeding with respect to any license held or with respect to any violation of a federal, state or local environmental law, rule or regulation;
- F. had any sanction imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, proposal rigging, embezzlement, misrepresentation or anti-trust regardless of the dollar amount of the sanctions or the date of their imposition; and
- G. been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

21. NON-COLLUSIVE PROPOSING, AND CODE OF ETHICS CERTIFICATION, CERTIFICATION OF NO SOLICITATION BASED ON COMMISSION, PERCENTAGE, BROKERAGE, CONTINGENT OR OTHER FEES

By proposing on this Agreement, each Consultant and each person signing on behalf of any Consultant certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that:

- A. the prices in its proposal have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Consultant or with any competitor;

B. the prices quoted in its proposal have not been and will not be knowingly disclosed directly or indirectly by the Consultant prior to the official opening of such proposal to any other Consultant or to any competitor;

C. no attempt has been made and none will be made by the Consultant to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition;

D. this organization has not made any offers or agreements or taken any other action with respect to any Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics dated April 11, 1996 (a copy of which is available upon request to the Authority) nor does this organization have any knowledge of any act on the part of an Authority employee or former Authority employee relating either directly or indirectly to this organization which constitutes a breach of the ethical standards set forth in said Code;

E. no person or selling agency other than a bona fide employee or bona fide established commercial or selling agency maintained by the Consultant for the purpose of securing business, has been employed or retained by the Consultant to solicit or secure this Agreement on the understanding that a commission, percentage, brokerage, contingent, or other fee would be paid to such person or selling agency;

F. the Consultant has not offered, promised or given, demanded or accepted, any undue advantage, directly or indirectly, to or from a public official or employee, political candidate, party or party official, or any private sector employee (including a person who directs or works for a private sector enterprise in any capacity), in order to obtain, retain, or direct business or to secure any other improper advantage in connection with this Agreement; and

G. no person or organization has been retained, employed or designated on behalf of the Consultant to impact any Authority determination with respect to (i) the solicitation, evaluation or award of this Agreement; or (ii) the preparation of specifications or request for submissions in connection with this Agreement.

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

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

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

Moreover, the foregoing certifications, if made by a corporate Consultant, shall be deemed to have been authorized by the Board of Directors of the Consultant, and such authorization shall be deemed to include the signing and submission of the proposal and the inclusion therein of such certification as the act and deed of the corporation.

In any case where the Consultant cannot make the foregoing certifications, the Consultant shall so state and shall furnish with the signed proposal a signed statement, which sets forth in detail the reasons therefor. If the Consultant is uncertain as to whether it can make the foregoing

certifications, it shall so indicate in a signed statement furnished with its proposal, setting forth in such statement the reasons for its uncertainty. With respect to the foregoing certification in paragraph "21G.", if the Consultant cannot make the certification, it shall provide, in writing, with the signed proposal: (i) a list of the name(s), address(es), telephone number(s), and place(s) of principal employment of each such individual or organization; and (ii) a statement as to whether such individual or organization has a "financial interest" in this Agreement, as described in the Procurement Disclosure policy of the Authority (a copy of which is available upon request to the Director of the Procurement Department of the Authority). Such disclosure is to be updated, as necessary, up to the time of award of this Agreement. As a result of such disclosure, the Authority shall take appropriate action up to and including a finding of non-responsibility.

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

Notwithstanding that the Consultant may be able to make the foregoing certifications at the time the proposal is submitted, the Consultant shall immediately notify the Authority in writing during the period of irrevocability of proposals on this Agreement or any extension of such period of any change of circumstances which might under this clause make it unable to make the foregoing certifications or require disclosure. The foregoing certifications or signed statement shall be deemed to have been made by the Consultant with full knowledge that they would become a part of the records of the Authority and that the Authority will rely on their truth and accuracy in awarding this Agreement. In the event that the Authority should determine at any time prior or subsequent to the award of this Agreement that the Consultant has falsely certified as to any material item in the foregoing certifications or has willfully or fraudulently furnished a signed statement which is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the foregoing certifications required to be disclosed, the Authority may determine that the Consultant is not a responsible Consultant with respect to its proposal on the Agreement or with respect to future proposals on Authority agreements and may exercise such other remedies as are provided to it by the Agreement with respect to these matters. In addition, Consultants are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see, e.g. New York Penal Law, Section 175.30 et seq.). Consultants are also advised that the inability to make such certification will not in and of itself disqualify a Consultant, and that in each instance the Authority will evaluate the reasons therefor provided by the Consultant.

Under certain circumstances the Consultant may be required as a condition of this Agreement award to enter into a Monitoring Agreement under which it will be required to take certain specified actions, including compensating an independent Monitor to be selected by the Authority. Said Monitor shall be charged with, among other things, auditing the actions of the Consultant to determine whether its business practices and relationships indicate a level of integrity sufficient to permit it to continue business with the Authority.

22. CONSULTANT ELIGIBILITY FOR AWARD OF AGREEMENTS - DETERMINATION BY AN AGENCY OF THE STATE OF NEW YORK OR NEW JERSEY CONCERNING ELIGIBILITY TO RECEIVE PUBLIC AGREEMENTS

Consultants are advised that the Authority has adopted a policy to the effect that in awarding its agreements it will honor any determination by an agency of the State of New York or New

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

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

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

23. NO GIFTS OR GRATUITIES

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

As used herein "anything of value" shall include but not be limited to any (a) favors, such as meals, entertainment, transportation (other than that contemplated by the Agreement or any other Authority agreement), etc. which might tend to obligate the Authority employee to the Consultant, and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Agreement or any other Authority agreement. Where used herein, the term "Port Authority" or "Authority" shall be deemed to include all subsidiaries of the Authority.

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

24. NON-DISCLOSURE/CONFIDENTIALITY, OFFERS OF EMPLOYMENT

During the term of this Agreement, the Consultant shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Authority). Without the express written approval of the Director, you shall keep confidential,

and shall require your employees, your sub-consultants, and your sub-consultant'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.

25. CONFLICT OF INTEREST

During the term of this Agreement, the Consultant shall not participate in any way in the preparation, negotiation or award of any agreement (other than an agreement for its own Services to the Authority) to which it is contemplated the Authority may become a party, or participate in any way in the review or resolution of a claim in connection with such an agreement if the Consultant has a substantial financial interest in the Consultant or potential Consultant of the Authority or if the Consultant has an arrangement for future employment or for any other business relationship with said Consultant or potential Consultant, nor shall the Consultant at any time take any other action which might be viewed as or give the appearance of conflict of interest on its part. If the possibility of such an arrangement for future employment or for another business arrangement has been or is the subject of a previous or current discussion, or if the Consultant has reason to believe such an arrangement may be the subject of future discussion, or if the Consultant has any financial interest, substantial or not, in a Consultant or potential Consultant of the Authority, and the Consultant's participation in the preparation, negotiation or award of any agreement with such a Consultant or the review or resolution of a claim in connection with such an agreement is contemplated or if the Consultant has reason to believe that any other situation exists which might be viewed as or give the appearance of a conflict of interest, the Consultant shall immediately inform the Director in writing of such situation giving the full details thereof. Unless the Consultant receives the specific written approval of the Director, the Consultant shall not take the contemplated action which might be viewed as or give the appearance of a conflict of interest. In the event the Director shall determine that the performance by the Consultant of a portion of its Services under this Agreement is precluded by the provisions of this numbered paragraph, or a portion of the Consultant's Services is determined by the Director to be no longer appropriate because of such preclusion, then the Director shall have full authority on behalf of both parties to order that such portion of the Consultant's Services not be performed by the Consultant, reserving the right, however, to have the Services performed by others and any lump sum compensation payable hereunder which is applicable to the deleted work shall be equitably adjusted by the parties. The Consultant's execution of this document shall constitute a representation by the Consultant that at the time of such execution the Consultant knows of no circumstances, present or anticipated, which come within the provisions of this paragraph or which might otherwise be viewed as or give the appearance of a conflict of interest on the Consultant's part. The Consultant acknowledges that the Authority may preclude it from involvement in certain disposition/privatization initiatives or transactions that result from the findings of its evaluations hereunder or from participation in any agreements, which result, directly or indirectly, from the Services provided by the Consultant hereunder.

26. DEFINITIONS

As used in sections 20 to 25 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.

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

28. 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.

29. If the foregoing meets with your approval, please indicate your acceptance by signing the original and the additional enclosed copy in the lower left-hand corner and returning them to the Authority.

Very truly yours,

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

Lillian D. Valenti
Director
Procurement Department

NAME OF FIRM

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DATE

Date _____

ACCEPTED:

NAME OF FIRM

By: _____

Title: _____

Date: _____

INSTRUCTIONS

If the selected Consultant firm is not located in the States of New York or New Jersey, change the number of the last Paragraph of this Agreement from "29" to "30" and insert a new Paragraph "29": as follows:

29. 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.