

October 10, 2014

SUBJECT: REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL SERVICES FOR FAR PART 150 NOISE COMPATIBILITY STUDIES

Dear Sir or Madam:

The Port Authority of New York and New Jersey (the “Authority”) is seeking Proposals in response to this Request for Proposals (RFP) for a Consultant(s) to perform Federal Aviation Regulation Part 150 Studies for Newark International (EWR) and/or Teterboro (TEB) Airports. The scope of the tasks to be performed by you 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 intends that you sign in the event of acceptance of your Proposal and forms the basis for the submission of Proposals.

Services to be performed by the selected Consultant may be funded by the Federal Aviation Administration (FAA) through an Airport Improvement grant. If FAA funding is provided, then FAA terms and conditions are required as part of the subject agreement and are applicable solely for the performance of such services. (See “Exhibit I – Federal Regulations” for a list of regulations as well as the Federal Aviation Administration Requirements (Exhibit II), compliance with which are required by the FAA.)

Proposers may submit a proposal for performance of Part 150 Studies for EWR and/or TEB. Clearly state in your proposal transmittal letter if your firm is proposing to conduct the Part 150 Studies for both EWR and TEB, or for either EWR or TEB.

Documents A through E listed in Section V of Attachment A will only be made available to the selected Consultant. There will be no pre-proposal meetings

I. PROPOSAL FORMAT REQUIREMENTS

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

- A. To be acceptable, the Proposal shall be of no more than 40 pages-single-sided or 20 pages-double-sided, using 12 point or greater font. The page limit pertains only to Letters E, F, and G of Section II below. Each resume shall be two-page maximum, single-sided or one-page double-sided, using 12 point or greater font size. The Proposal pages shall be numbered and bound, with “Your Firm Name,” and **RFP Number 39942** clearly indicated on the cover.
- B. Each section of the Proposal shall be separated with a tab divider that is labeled in accordance with the letter of the requirements specified below in Section II.
- 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, Two 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

four (4) copies, along with five (5) compact disc copies, 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 November 10, 2014**. The outermost cover of your submittal must be labeled to include the RFP Number and title as indicated in the "Subject" above. The Authority assumes no responsibility for delays caused by any delivery services.
- G. If your Proposal is to be delivered by messenger, please note that only individuals with proper identification (e.g. photo identification) will be permitted access to the Authority's offices. Messengers without proper identification will be turned away and their packages not accepted.

II. SUBMISSION REQUIREMENTS:

To respond to this RFP, provide the following information:

- A. In the front of your Proposal, a copy of Attachment B (Agreement on Terms of Discussion) signed by an officer of your company.
- B. Complete a copy of Attachment C (Company Profile).
- C. Include a statement indicating whether the Consultant is proposing as a single entity, or as a joint venture.

If a joint venture submits a proposal, all participants in the joint venture shall be bound jointly and severally and each participant shall execute the proposal. If a single entity proposer cannot demonstrate that it meets all of the referenced qualifications, then the single entity proposer may, with others, form a joint venture and request that the joint venture be deemed to be the proposer (i.e. members of the joint venture may meet the qualification requirement collectively).

If the proposer is a joint venture, the joint venture's proposal shall contain an executed teaming agreement, or alternatively, if the entities making up the joint venture proposer have not executed a teaming agreement, the joint venture's proposal shall contain a summary of key terms of the anticipated agreement. If the joint venture proposer is a consortium, partnership or any other form of a joint venture, or an association that is not a legal entity, the proposal shall include a letter signed by each member indicating a willingness to accept joint and several liability until the point at which a corporation, limited liability company or other form of legal entity is formed for the purposes of undertaking the agreement.

D. Qualifications and Experience of Staff.

List the name(s), title(s) and provide resumes of personnel (including subconsultants, if any) who will be assigned to perform the required services.

E. Firm Qualifications and Experience

Provide your firm's qualifications and experience in providing the services contemplated herein. For each project identified, indicate:

1. Description of services provided by your firm;
2. Start and end dates of services performed;
3. Indicate whether said projects were completed on schedule and within budget;
4. Hiring entity and contact person (name, title, phone number, email address).

F. A detailed description of the proposed technical approach to be taken for the performance of the required services for each task in Attachment A, and a schedule for completion of said tasks. Factors addressed in your technical approach shall include, but are not limited to, your proposed methodology and strategy for performing the services in Attachment A as well as any specific software or other technology you may employ in the performance of these services.

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

H. DBE Participation

Your attention is directed to Paragraph 23 of the Agreement in which the Authority has stated the goals for DBE participation in this project. Provide your DBE Participation Plan by completing Exhibit III, which shall briefly contain, at minimum, the following:

1. Identification of DBEs: Provide the names and addresses of all DBEs included in the Plan. If none are identified, describe the process for selecting participant firms in order to achieve the good-faith goals under the Agreement.
2. Level of Participation: Indicate the percentage of DBE participation expected to be achieved with the arrangement described in the Plan.
3. Describe the specific scope of work the DBE(s) will perform.
4. Previous DBE Participation: Describe any previous or current DBE participation that the Proposer has utilized in the performance of similar services.
5. Include Exhibit III in the sealed envelope mentioned in paragraph J. below.

- I. In a **sealed envelope** labeled “Pricing and Compensation Proposal”, complete Exhibit IV, which is accessible in Excel format via the following link: [Exhibit IV – Pricing and Compensation Proposal](#). After review of all proposals received, the Authority will review the Pricing and Compensation Proposal from the firm whose technical proposal is rated highest.
1. For each billing rate, set forth a breakdown showing salaries and fringe benefits, overhead, profit, and any other component (e.g., vacation, holiday, sick pay, worker's compensation, office rent, insurance, etc.).
 2. An itemized list of all out-of-pocket expenses (see paragraph 8.E. of the attached Authority standard agreement).
- In the seal envelope, you are required to submit one (1) reproducible original and six (6) copies, along with one (1) compact disc copy, of Exhibit IV for review.
- J. A complete list of your firm’s affiliates.
- K. If the Proposer or any employee, agent or subconsultant of the Proposer may have, or may give the appearance of a possible conflict of interest, the Proposer shall include in its proposal a statement indicating the nature of the conflict. The Authority reserves the right to disqualify the Proposer if, in its sole discretion, any interest disclosed from any source could create, or give the appearance of, a conflict of interest. The Authority's determination regarding any question(s) of conflict of interest shall be final.
- L. The Proposer is expected to agree with the standard agreement and its terms and conditions. You should therefore not make any changes in this standard agreement, nor restate any of its provisions in your Proposal or supporting material. ***However, if the Proposer has any specific exceptions, such exceptions should be set forth in a separate letter included with its response to this RFP.*** The Authority is under no obligation to entertain or accept any such specific exceptions. Exceptions raised at a time subsequent to proposal submission will not be accepted. The scope of the tasks to be performed by you are set forth in Attachment A to the Authority's standard agreement.

The selected firm(s) are required to be in compliance with all FAA advisory circulars, which can be found at this link: http://www.faa.gov/airports/resources/advisory_circulars.

III. SELECTION PROCESS:

The qualifications-based selection shall take into consideration the following technical criteria listed in order of importance. After consideration of these factors, the Authority may enter into negotiations with the firm(s) deemed best qualified, in terms of the forgoing technical criteria, to perform the required services.

- A. qualifications and experience of the proposed staff , including subconsultants, who will be performing services hereunder;
- B. qualifications and experience of the firm, including the quality of similar services provided to others, and the demonstrated ability to complete the services in accordance with the project schedule;
- C. technical approach to performance of the contemplated services; and
- D. management approach for the performance of the contemplated services.

IV. ORAL PRESENTATIONS:

After review of all Proposals, 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 30 minutes, and should include material contained in your Proposal. The presentation will be followed by an approximately 30-minute question and answer session. Proposer's staff providing the presentation shall be led by the proposed Project Manager, who may be supported by no more than four (4) other senior staff members proposed to work on this project. Notification of presentation scheduling is made by email. Please provide the name, telephone number, and email address of the person who should be contacted for presentation scheduling as well as an alternate in the event that person is unavailable.

V. ADDITIONAL INFORMATION:

Proposers are advised that additional vendor information, including, but not limited to forms, documents and other related information, may be found on the Authority website at <http://www.panynj.gov/business-opportunities/vendor-information.html>, and to monitor <http://www.panynj.gov/business-opportunities/bid-proposal-advertisements.html> for RFP updates and addenda. If your firm is selected for performance of the subject services, the agreement you will be asked to sign, at that time, will include clauses entitled "Certification of No Investigation (Criminal Or Civil Anti-Trust), Indictment, Conviction, Debarment, Suspension, Disqualification and Disclosure Of Other Information" And "Non-Collusive Proposing And Code Of Ethics Certification; Certification Of No Solicitation Based On Commission, Percentage, Brokerage, Contingent Or Other Fees." By submitting a Proposal the Consultant shall be deemed to have made the certifications contained therein unless said Consultant 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.

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

Should you have any questions, please contact Mary Lou Rivera, Solicitation Manager, by email at mlrivera@panynj.gov. All such correspondence must have your name, title, company, mailing address, telephone number and state "RFP 39942" in the subject line. The Authority must receive all questions no later than 2:00 P.M., seven (7) calendar days before the RFP due date. Neither Ms. Rivera nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it

will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate.

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

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

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

Sincerely,

David Gutiérrez
Manager, Construction Procurements
Procurement Department

Attachments

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL SERVICES FOR 14 CFR PART 150 NOISE COMPATIBILITY STUDIES

I. BACKGROUND:

The Port Authority of New York and New Jersey (the “Authority”) is a municipal corporate instrumentality and political subdivision of the States of New York and New Jersey, created and existing by virtue of the Compact of April 30, 1921, made by and between the two States, and thereafter consented to by the Congress of the United States. It is charged with providing transportation, terminal, and other facilities of trade and commerce within the Port District. The Port District comprises an area of about 1,500 square miles in both States, centering about New York Harbor. The Port District includes the Cities of New York and Yonkers in New York State, and the cities of Newark, Jersey City, Bayonne, Hoboken and Elizabeth in the State of New Jersey, and over 200 other municipalities, including all or part of seventeen counties, in the two States. The Authority manages and/or operates all of the region’s major commercial airports (LaGuardia (LGA), John F. Kennedy International (JFK), Newark Liberty International (EWR), Teterboro, 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’s facilities also include all of its wholly owned subsidiaries, such as but not limited to The Port Authority Trans-Hudson Corporation (PATH), that 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 consultant shall provide services to the Authority and any of its subsidiaries as required by the Authority.

Project Background:

The Governor’s office of the State of New Jersey recognizes that aircraft noise has been a concern of residents of New Jersey. Therefore, the Authority has been directed by the Governor to conduct noise studies that meet the requirements of *Noise Control and Compatibility Planning for Airports*, 14 CFR Part 150 (Part 150) for EWR and TEB and to establish a Aviation Community Roundtable for airport noise and related issues in collaboration with the Federal Aviation Administration (FAA) and other stakeholders.

II. SCOPE OF SERVICES

The services of the consultant shall generally consist of performing all facets of two separate 14 CFR Part 150 Noise Compatibility planning Studies for EWR and TEB. Each study shall comply with the Federal Aviation Administration (FAA) Advisory Circular, *Noise Control and Compatibility Planning for Airports*, 14 CFR Part 150 (Part 150), and any other FAA guidelines related to the Part 150 process. In conducting this Airport Improvement Program (AIP) funding eligible project, the Consultant shall coordinate closely with the FAA and perform all work in such a manner to be eligible under AIP guidelines. In addition, the

Consultant shall design and conduct a robust public participation program to ensure a broad base of public involvement meeting all the regulatory requirements of FAR Part 150.

III. DESCRIPTION OF CONSULTANT'S TASKS

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

TASK A. DEVELOPMENT OF STUDY PROTOCOL

The Consultant shall develop a detailed protocol in conducting the 14 CFR Part 150 Study(ies) in close coordination with the Authority and FAA. The study protocol document shall include, but not limited to, the following:

1. Methodology(ies) in conducting the 14 CFR Part 150 Studies
2. Roles and responsibilities of stakeholders including but not limited to the Authority, FAA Lines of Business, and Technical Advisory Committee (TAC)
3. Creation of TAC along with membership criterions
4. Details about public participation process and conflict resolution
5. Establishing document review timeframes
6. Project milestones and schedule
7. Project deliverables

TASK B. MEETINGS

1. Meet with Authority staff, FAA representatives, and others as required in the performance of the services contemplated hereunder. Attend a project kick-off meeting to finalize the scope of work and develop a roadmap for conducting these projects. Identify and address informational needs that will be required to conduct these Studies.
2. Meetings anticipated during the course of this study shall include, but are not limited to:

Meeting	Anticipated No. of Meetings	Frequency of the Meeting
Technical Advisory Meetings	18 for EWR 18 for TEB Total: 36 Meetings	Bi-monthly
Part 150 Study Information Sessions	3 for EWR 3 for TEB Total: 6 Meetings	To be determined
Public Meetings	2 for EWR 2 for TEB Total: 4 Meetings	To be determined
Public Hearings	1 for EWR 1 for TEB Total: 2 Meetings	At the completion of the draft report for formal submittal to FAA
Project Meetings	Total: 150 Meetings (covering EWR and TEB)	Weekly
Special Part 150 Presentations	2 for EWR 2 for TEB	To be determined

The total anticipated number of hours for all meetings is estimated to be 525 hours. Details on meetings are provided under Task E.4.

3. Form a TAC for conducting this Part 150 Study. The committee may consist of representatives from the FAA, Authority, Consultant team and other stakeholders such as community groups, airlines, airport tenants, appointees by elected officials etc. A separate TAC shall be formed for each airport but may have same members serving on both committees due to their role in the study such as overlapping communities within EWR and TEB study area, Authority and/or FAA officials, aviation advocacy group(s) etc. The TAC created for each airport will be dedicated for conducting Part 150 Study and independent from the existing Aviation Roundtable Committee for EWR and the Teterboro Airport Noise Abatement Advisory Committee.
4. Prepare meeting agendas, handouts, graphic materials, as required. Prepare minutes of these meetings and distribute to attendees for review (as approved by the Authority). Incorporate comments and redistribute as final.
5. Location of the meetings will be determined except for the weekly project meetings, which will be held at the Authority's headquarters office in Manhattan or via phone call or web conference, as appropriate. All reports, correspondence, etc., are to be coordinated directly through the Authority's designated Project Manager or designee only, and not through any airport facility staff or others.

TASK C. VERIFICATION

1. Evaluate all information available to conduct the Study(ies). This information may include, but not be limited to:
 - a. Past noise exposure mapping studies
 - b. Environmental Assessments documents Noise monitoring and flight tracking data from Airport Noise and Operations Monitoring System (ANOMS)
 - c. Noise complaint data compiled for each of the airports
 - d. Geographical Information System (GIS) data and maps
 - e. Land use data available from past studies
 - f. Historical flight patterns provided from ANOMS
 - g. FAA's approved Authority aviation activity forecasts
2. Notify the Authority's project manager when other required information is needed to conduct the Study(ies).

TASK D. DEVELOPMENT OF NEMs:

Prepare both the existing and the future (minimum of 5 years out) noise exposure maps for each airport using the latest version of the FAA's Integrated Noise Model (INM) and/or the Aviation Environmental Design Tool, as appropriate, for each airport. The years for existing and future NEMs shall be based on consultations with FAA and on the final project schedule. The NEM development phase shall include, but is not limited to:

1. Evaluating prior NEM studies conducted for each airport including INM input files, operational data, fleet mix, runway utilization, flight tracks, flight profiles, GIS maps/data, etc., as appropriate to aid in the development of the model input files for these Studies.
2. Using operational data for each airport based on historical ANOMS data and the Authority's FAA approved aviation forecast, as appropriate in generation of NEMs.
3. Evaluating flight profiles for operations and recommend if any non-standard profiles need to be modeled in generating NEMs. Recommendations must be coordinated with the appropriate FAA offices.
4. Working with the appropriate land use planning agencies to collect and develop accurate and reliable data about each airport, including the surrounding land use and zoning in the communities and the noise impact on the airport's communities. Information may be obtained from existing environmental documents; however, the Consultant shall be responsible for ensuring that all required land use data is accurate.
5. Prepare maps depicting the flight tracks by runway and mode of operation showing both track dispersion and backbone tracks to be modeled for both existing and future years.
6. Develop a land use map depicting land use around the airport for both existing and future cases.
7. NEM's prepared under this task shall depict 60, 65, 70, 75 Day Night Level (DNL) contours for both existing and future years' conditions at each airport to satisfy the requirements of 14 CFR Part 150. Preparation of up to two other contours for differing DNLs may be requested, as necessary
8. Each NEM prepared shall display all information required by 14 CFR Part 150 Section A150.101(e). This includes a map of the airport and its environs at an adequately detailed scale (not less than 1 inch to 2,000 feet). Additionally, a map depicting flight tracks out to at least 30,000 feet from the end of each runway shall be created.
9. Evaluate the data and location of existing four (4) noise monitors for EWR and six (6) noise monitors for TEB to determine if any additional noise monitoring locations and data is needed to satisfy public concerns. If additional noise monitors are needed, then determine the number and location of new noise monitors, along with the duration of data to be collected. Installation of the monitors and collecting noise data will be performed by the Authority.
10. Conducting noise impact evaluation for each NEM to provide population and housing counts within each noise contour band. Noise sensitive public facilities (such as schools, hospitals, and properties on or eligible for inclusion in the National Register of Historic Places) surrounding each airport shall be identified (i.e. name, location, and type) on each NEM as well as listed in a table format in the final report.
11. Future year NEM shall take into account any major capital projects and changes in any flight procedures for each airport that may affect NEMs in the future project year.
12. Budgeting additional model runs for this project to address any complexities that may arise during the study in relation to project schedule, future capital projects, changes in flight procedures, changes in flight profiles, comments received from stakeholders, etc.

The additional model runs may include up to four (4) model runs for existing year and four (4) model runs for future years.

13. Preparing a detailed draft report listing the data and methodology used in preparing existing and future year NEMs as part of the official Part 150 report and submit to the Authority for comment and approval. Incorporate all the recommended changes and prepare final NEMs for submittal to FAA as part of the Part 150 report.
14. Addressing and documenting any comments received on the final NEMs after FAA's and/or public review.

After consulting with the FAA and the Authority, the Consultant may be directed to use supplemental noise metrics for specific noise-sensitive locations or situations that may be identified. The supplemental noise metrics will be used only as informational purposes and may include noise metrics that are described for evaluation in FAA Order 1050.1E, Environmental Desk Reference for Airport Actions based on FAA Order 5050.4B, and the FAA memorandum "AEE and Airports Coordination Policy for Non-Standard Modeling Procedures and Methodology", July 2009.

TASK E: DEVELOPMENT OF NOISE COMPATIBILITY PLAN:

1. Identify and evaluate remedial and preventive land use strategies for the communities surrounding each airport, in consultation with appropriate State and local planning, land use officials/entities, and TAC to mitigate aircraft noise within the 65 DNL noise contour. Tasks shall include, but are not limited to:
 - a. Determine the boundaries of the project study area based on the requirements of FAR Part 150 and data collected in previous tasks. The boundary of project study may be determined based on the noise contour, monthly noise monitoring DNL data, historical noise complaint data, jurisdictional and neighborhood boundaries, etc.
 - b. Conduct a survey of State, county, and local land use controls in place for within the project study area for each airport. Review land use planning documents and interview county and local officials related to areas within the study area. Determine current and future conditions or actions that may have any effect on the future population database, or recommended noise mitigation measures.
 - c. Prepare a comprehensive land use database based on GIS information collected through previous projects/studies and above listed tasks. The database shall include all residential (including single family homes, multifamily homes, residential buildings, etc.) commercial, industrial, recreational/public use, and undeveloped/vacant uses. Noise sensitive facilities to be included in the database shall include churches, schools (public and private), nursing homes, hospitals, libraries, day care centers and other similar facilities.
 - d. Develop a comprehensive list of noise mitigation measures for initial consideration related to land use compatibility strategies. Include measures identified by FAA guidance documents, in place at other large hub airports, based on industry group surveys, and industry experience. These measures must include but are not limited to:

- 1) Identifying corrective strategies to resolve land use incompatibilities such as sound insulation programs.
 - 2) Examining and proposing recommendations to prevent or discourage future land use incompatibilities.
 - 3) Acquisition of land and interests therein, including, but not limited to air rights, easements, and development rights, to ensure the use of property for purposes which are incompatible with airport operations;
 - 4) The construction of barriers and acoustical shielding, including the soundproofing of public buildings.
- e. Develop a list of screening criteria, in relation to airport current and future operational conditions, to identify the feasibility and practicability of noise mitigation measures identified in task 2d. above. These criteria may include factors such as short-term and long-term effectiveness of a measure, community impacts, ease/difficulty of implementation, potential to reduce existing noncompatible land uses or reduce the probability of the establishment of additional noncompatible land uses, cost of implementation, political and legal challenges, etc.
 - f. Based on task e above, prepare a screening matrix analysis and prepare a brief technical memorandum documenting why each potential mitigation measure was recommended for continued consideration or elimination from further consideration. This task shall be completed in consultation with the TAC.
 - g. Estimate implementation cost for each potential mitigation measure evaluated in above task f above.
 - h. Based on above tasks, identify the optimal noise mitigation measure(s) for each airport or combination of such measures, as selected in consultation with the TAC, for further analysis. This shall involve determination of noise reduction benefits for each retained noise mitigation measure in relation to the implication challenges such as cost, environmental, community, and legal factors.

2. Noise Abatement Measures:

Working with the FAA, identify and evaluate noise abatement measures to mitigate existing and future aircraft noise impacts in each airport's environs. Tasks shall include, but are not limited to:

- a. Develop a comprehensive list of noise abatement measures for initial consideration. This list shall include measures identified in Appendix B of Part 150 Section B150.7. These measures must include but are not limited to:
 - 1) Construction/alteration of airport facilities such as reconfiguration of runways and taxiways;
 - 2) Airport operations and air traffic control measures such as preferential runway use programs, noise abatement flight routes, controls of engine run-ups, etc.;
 - 3) Aircraft operational measures such as involving changes to the procedures used by pilots during takeoff and landing (i.e. changes to thrust, continuous descent, flap management, Next-Gen flight procedures, Airspace Redesign program etc.);

- 4) Implementation of any restriction on the use of the Airport use by any type or class of aircraft based on the noise characteristics of those aircraft. Such restrictions may include, but are not limited to: denial of use of the airport to aircraft types or classes which do not meet federal noise standards; capacity limitations based on the relative noisiness of different types of aircraft; requirement that aircraft using the airport must use noise abatement takeoff or approach procedures previously approved as safe by the FAA; landing fees based on FAA certificated or estimated noise emission levels or on time of arrival; partial or complete curfews (Note: these may be subject to FAR Part 161 but shall still be identified.);
 - b. Develop a list of screening criteria (qualitative), in relation to airport current and future operational conditions, to identify the feasibility and practicability of noise abatement measures identified in task 3a. above. These criteria may include factors such as conformance with study goals and airport's role, consistency with FAA air traffic control standards, flight safety considerations, difficulty of implementation, legal challenges/considerations, economic feasibility, FAR Part 161 issues, etc.
 - c. Based on task 3b. above, prepare a qualitative matrix analysis and a brief technical memorandum documenting why each potential measure was recommended for continued consideration or eliminated from further consideration. This task shall be completed in consultation with the TAC.
 - d. Based on above tasks, identify the optimal noise abatement measure(s) for each airport or combination of measures, as selected in consultation with the TAC, for further analysis. The identification of optimal measures shall consider operational impacts to the other airport(s). This analysis shall involve determination of noise exposure impacts of each recommended noise abatement alternative by preparing NEMs and GIS information (population and housing counts, noise sensitive facilities, historic properties, land use, etc.).
3. Develop a Noise Compatibility Plan (NCP) in accordance with the requirements of 14 CFR Part 150 – Section 150.23. The NCP shall identify all actions, responsible parties, costs and potential revenue sources needed to implement the program. The specific elements of this task shall include, but are not limited to the following:
 - a. Based on the optimum noise abatement measures developed in Task 2 above in consultation with input from TAC, prepare a list of optimal air traffic noise abatement procedures to become part of the final NCP submittal to the FAA.
 - b. Based on the optimum noise mitigation and/or land use measures developed in Task 1 above in consultation with input from TAC, prepare a list of optimal noise abatement measures related to land use compatibility strategies to become part of the final NCP submittal to FAA.
 - c. Each noise abatement and mitigation procedure, or combination of both to be included in the final NCP, shall be assessed in accordance with 14 CFR Part 150 requirements for final submittal for FAA's approval. The issues assessed shall include but are not limited to: the factors listed in Part 150 Section B150.5, implementation cost, economic feasibility, impacts to airfield efficiency/delays, air

- traffic control (i.e. existing versus proposed procedures), flight safety, financial feasibility, environmental challenges, legal challenges, availability of funds etc.
- d. Based on the final recommended noise abatement and mitigation measure(s) or combination of both such measures, the impacts of the selected noise abatement program shall be determined. The impact evaluation shall provide the count of population and public and residential structures within the 65 DNL and higher contours summarized by geographical area; number of noise-sensitive land uses impacted by aircraft noise, by level and by type of land use and by geographical area; and a GIS map depicting all the land use information in relation to the DNL noise contours.
 - e. Prepare an NCP implementation plan consisting of following: summary of actions required to implement the final NCP; identification of responsible parties, costs, and source(s) of funds; identification of target dates for implementation of recommended measures; and determination of appropriate measures for monitoring, enforcement, and evaluation of the recommended measures. The evaluation of the recommended measures should include information that identifies the total population affected by noise with and without each measure in the program.
 - f. Prepare and submit a draft Part 150 report for internal Authority review. After receiving Authority's comments, prepare a final Part 150 report incorporating all the changes for formal submittal to FAA. The submittal shall include the NEMs and the NCP, and shall be organized consistent with the appropriate FAA's Part 150 program checklist. Each of the tasks required in this checklist, where applicable, will be performed and a completed checklist will be submitted for internal Authority review and subsequently with formal submittal to the FAA.
4. Develop Program Management measures based on the types of noise abatement and land use mitigation measures that are selected as part of the NCP program. These measures shall consist of actions that are needed to facilitate the execution of the NCP program's recommendations along with a schedule necessary to carry out the program measures, and future review and/or updates to the program. Identification and evaluation of these measures shall be made in consultation with the Authority, FAA, and TAC.
 5. Develop and conduct a comprehensive stakeholder participation program in accordance with the requirements of 14 CFR Part 150 – Section 150.23. Identify issues and concerns with all tasks/elements of the Part 150 study, provide timely and accurate information, and foster development of stakeholder consensus in completing the Part 150 Studies for EWR and/or TEB airports. A primary goal is to have a public participation program that is inclusive and transparent, while providing meaningful opportunities for participation to all stakeholders. The specific elements of this task shall include, but are not limited to the following:
 - a. Technical Advisory Committee

The TAC shall advise the Authority and the Consultant on the technical evaluation and make recommendations of the Study through participation in regular committee meetings; provide a forum in which the experts in land use, airport and aircraft

operations, air traffic control, community relations, etc. can discuss and review the draft work; and provide informed feedback.

b. Part 150 Study Informational Sessions

Organize and participate in special presentations on the Part 150 study on an as-needed basis throughout the course of the study to communicate and educate elected officials, community groups, airport noise round table, and other organized interest groups, about the Part 150 Study process and findings.

c. Public Meetings

1) Plan and organize all the public meetings associated with the Study. Meeting for each airport shall be held separately, open to general public and held at a convenient location to be determined. The public meetings may be conducted in a workshop or open-house format, where attendees will be able to visit a series of stations where information specific topics will be available on boards. The following information and topics shall be covered in public meetings:

- a) 14 CFR Part 150 Process
- b) Airspace and flight procedures
- c) Airport operational data/flight tracks
- d) Noise monitoring and complaints data
- e) Noise exposure maps
- f) Land use data
- g) Noise abatement and mitigation measures
- h) Recommended Noise compatibility plan

2) Each meeting shall be publicly advertised in local and regional newspapers by the Authority.

3) Public meetings shall be held on weekday evenings excluding Fridays.

4) Provide a transcriptionist for each public hearing to generate verbatim transcripts of public comments. Also prepare formal responses to all the comments received during the public hearing and public review period. Submit draft responses to the Authority and FAA for review and comment. Incorporate all Authority comments to the draft responses and submit final responses for review to the Authority prior including in the appendix to the final Part 150 Study report.

d. Community Outreach Program

Organize and conduct a multi-faceted community outreach program to encourage involvement of the general public in the Part 150 Study process. The public outreach program shall consist of, but is not limited to:

1) Developing, hosting and maintaining a Study website containing following information:

- a) Overview of the Part 150 Study process

- b) Background/general information on airport operations
 - c) Study scope of work and schedule
 - d) Public meetings' dates, times and locations
 - e) Public meeting's notes/minutes
 - f) Study-related frequently asked questions
 - g) Data on historical airport operations, monitoring data, and noise complaints
 - h) Results of TAC meetings (i.e. decisions made)
 - i) Project news releases, announcements and other notices
 - j) Posting of draft Part 150 report along with all associated exhibits such as NEMs, flight tracks, airport aerials, etc.
 - k) Ability to receive comments from public on the draft Part 150 Report
 - l) Display of exhibits used at public meetings
 - m) Links to pertinent websites related to Part 150 Study
- 2) The Authority project manager must approve the content and format of the webpage and any subsequent updates.
 - 3) The project website shall be periodically updated whenever new information is available. For example, the meeting notes, minutes and action items shall be posted within two (2) weeks after each meeting.
 - 4) Prepare and post on the website, as approved by the Authority, a project newsletter, updated once every quarter. This newsletter shall provide the study progress to date and address any question and concerns raised by the general public in meetings and through comments and questions. The project newsletter shall also provide the project schedule updates including milestones completed and near future upcoming milestones. Important technical and policy decisions made during the previous TAC meeting shall also be listed on the newsletter. The newsletter shall consist of only one letter size page (printed double sided). Approximately 1,000 copies of the latest newsletter shall be available at each public meeting.
 - 5) Prepare a study fact sheet summarizing the Part 150 Study process, noise exposure maps, and the recommended NCP for distribution at each public hearing. The study fact sheet shall be printed on a 11" by 17" paper (double sided) and folded to provide a pocket sized brochure to meeting attendees.
- e. Project Progress Meetings:
- Provide progress meetings once every week during the course of the study(ies) with the Authority and FAA. These meetings may take place via a phone call, web conference, e-mail, or in person. Each meeting shall address any information needs, formulate project strategy, coordinate with FAA staff, and prepare for public meetings etc. It is anticipated that there will be total of 150 weekly progress meeting for both Studies with each meeting lasting up to one (1) hour.

f. Administrative Record:

The Part 150 Study may provide information for future NEPA documentation and/or Part 150 program future updates. Therefore, maintain archive of all the project related documents available electronically from beginning to the end of the project.

g. Conflict Resolution:

Resolve conflicts that may arise, between stakeholders and communities competing with one another in protecting their interests, while conducting the Studies.

IV. DELIVERABLES

A. Reports may include but are not limited to:

1. Refined scope of work and project strategy roadmap along with schedule.
2. Recommendation memo on stakeholder participation program outlining formation of Technical Advisory Committee for the Study, and strategy on public participation
3. Memo on evaluation of historical noise monitoring data and recommendations for further noise monitoring.
4. Draft and Final NEM reports consisting of noise contour maps for submission to the FAA for acceptance providing all the INM inputs and GIS information for both current and future years.
5. Technical Memo listing the final recommended noise abatement and mitigation measures and/or combination of both (i.e. screening criteria and the reason(s) why the recommended measures were selected or dropped from further consideration).
6. Preliminary draft Part 150 Study report for Authority and FAA review (consisting of both NEM and NCP components of the Study).
7. Final draft Part 150 Study report (consisting of both NEM and NCP components of the Study) for formal FAA and public review submittal
8. Preliminary final Part 150 Study report (consisting of both NEM and NCP components of the Study), with revisions made to the report based on comments received during public review period, for Port Authority and FAA review (responses to comments shall be incorporated in the appendix to the final report).
9. Final Part 150 Study Report for public release.
10. Executive summary of the Final Part 150 Study report outlining the entire Part 150 Study process, findings, recommendations, and implementation schedule.

B. For all reports identified herein, submit in Adobe Acrobat Reader (pdf) and Microsoft Word- and Excel-compatible files on a CD (or other compatible media), or provide electronic access to the files for download. All the reports listed above shall be prepared separately for EWR and TEB airports. If requested by the Authority and/or FAA:

1. provide up to 25 printed copies of preliminary draft Part 150 Study report (including both NEM and NCP components of the Study, listed under item 6 above) for each airport;
 2. up to 100 printed copies of the final draft Part 150 Study report (including both NEM and NCP components of the Study, listed under item 7 above) for each airport;
 3. up to 25 printed copies of the preliminary final Part 150 Study report (including both NEM and NCP components of the Study, listed under item 8 above) for each airport;
 4. up to 100 printed copies of the final Part 150 Study report (including both NEM and NCP components of the Study, listed under item 9 above) for each airport; and
 5. up to 50 copies of the executive summary of the final Part 150 Study report (listed under item 10 above) for each airport.
- C. The Final Technical Memorandum shall be completed within thirty-six months of receipt of the Agreement award date.

V. INFORMATION AND MATERIALS PROVIDED BY THE AUTHORITY

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

The documents listed below will be available from the Authority to the selected Consultant for their information. ANOMS data for past 10 years including flight tracks, noise monitoring data, fleet mix, aircraft operation counts, noise contours (for past 3 years)

- A. Noise complaint data for past 10 years
- B. Historical NEM Studies from past Environmental documents consisting of INM input files, noise contours, GIS data, final reports
- C. Port Authority aviation activity forecasts through 2032.
- D. Information on historical and near-term future capital improvement projects at airports
- E. Additional data from other source repositories may be provided as necessary and available.

VI. CONDITIONS AND PRECAUTIONS

A. General

Immediately inform the Authority of any unsafe condition discovered at any time during the course of this work.

B. Work Hours

Regular Authority working hours are from 9:00 A.M. to 5:00 P.M., Monday through Friday, except legal holidays of either the State of New York or the State of New Jersey.

VII. LIABILITY INSURANCE AND WORKERS' COMPENSATION INSURANCE

A. Commercial Liability Insurance:

1. The Consultant shall take out and maintain at his own expense Commercial General Liability Insurance including but not limited to Premises-Operations, Completed Operations and Independent Contractors' 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 Agreement, then the Consultant shall also take out, maintain and pay the premiums on Automobile Liability Insurance covering all owned, non-owned and hired autos in not less than \$5,000,000 combined single limit per accident for bodily injury and property damage. Any/all activities performed airside must, at all times, be performed while under security escort as approved in advance, and in writing by the Project Manager. If at any time, the Consultant is directed to perform services airside in absence of an approved escort, the Commercial General Liability Insurance and Automobile Liability Insurance provided by the Consultant must contain limits of not less than \$25,000,000 combined single limit per occurrence, as provided in item 2) (a) below. In addition, the liability policies (other than Professional Liability) shall include the "Port Authority of New York and New Jersey and its related entities as additional insured and shall contain an endorsement that the policy may not be canceled, terminated or modified without thirty (30) days written advance notice to the Project Manager as noted below. Moreover, the Commercial General Liability policy shall not contain any provisions (other than a Professional Liability exclusion, if any) for exclusions from liability other than provisions or exclusions from liability forming part of the most up to date ISO form or its equivalent unendorsed Commercial General Liability Policy. The liability policy (ies) and certificate of insurance shall contain separation of insured condition (cross-liability) and severability of interests provisions so that coverage will respond as if separate policies were in force for each insured.

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 Chief Engineer 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 explosion, collapse, and underground property damage (XCU) 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. A waiver of subrogation in favor of the Authority and its related entities, as allowed by law, shall be included.
2. Additional Coverages: The Consultant shall have the policy endorsed when required by the Chief 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:

Not less than \$5 million each occurrence, covering acts, errors, mistakes, and omissions arising out of the work or services performed by Consultant, or any person employed by Consultant. All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on an occurrence basis or may be written on a claims made basis with a minimum of a three-year reporting/discovery period.

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 Contract Administrator, Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy. The General Manager, Risk Management must approve the renewal certificate(s) of insurance before work can resume on the facility. If at any time any of the certificates or policies shall become unsatisfactory to the Port Authority, the Consultant 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 Project Manager shall so direct, the Consultant shall suspend performance of the Agreement at the premises. If the Agreement is so suspended, no extension of time shall be due on account thereof. If the Agreement is not suspended (whether or not because of omission of the Project Manager to order suspension), then the Authority may, at its

option, obtain insurance affording coverage equal to the above required, the cost of such insurance to be payable by the Consultant to the Authority.

3. Upon request of the General Manager, Risk Management/Treasury, the Consultant shall furnish to the Authority a certified copy of each policy itself, including the provisions establishing premiums.
4. The requirements for insurance procured by the Consultant shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Consultant under this Agreement. The insurance requirements are not a representation by the Authority as to the adequacy of the insurance to protect the Consultant against the obligations imposed on them by law or by this or any other Agreement.
5. The Authority may at any time during the term of this Agreement change or modify the limits and coverages of insurance. Should the modification or change result in an additional premium, the General Manager, Risk Management for the Authority may consider such cost as an out-of-pocket expense.

P.A. Agreement #*-**-*****
DATE

FIRM NAME
ADDRESS
CITY, STATE ZIP

Attention: CONTACT NAME, TITLE

**SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL SERVICES FOR FAR
PART 150 NOISE CAPABILITY STUDIES**

Dear CONTACT:

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

The Authority does not guarantee the ordering of any services under this Agreement and specifically reserves the right, in its sole discretion, to use any person or firm to perform the type of services required hereunder.

This Agreement shall be signed by you, and the Chief Procurement Officer. As used herein "Director" shall mean the Director, Aviation Department, acting either personally or through their duly authorized representatives acting within the scope of the particular authority vested in them unless specifically stated to mean acting personally.

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

2. 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.

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

4. For the purpose of the contemplated services hereunder, the Consultant shall comply with all Federal Aviation Administration (FAA) requirements, as applicable, to include but not be limited to all applicable federal laws, regulations, etc.. Exhibits I and II are incorporated into this Agreement. In the event of conflict between the terms contained within this document and the Federal Requirements contained in Exhibits I and II, the Federal Requirements contained within Exhibit I and II shall control.

5. The Consultant shall meet and consult with Authority staff as requested by the Director in connection with the services to be performed herein. All items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Director. The Director may disapprove, if, in his sole opinion said items are not in accordance with the requirements of this Agreement or professional standards, or are impractical, uneconomical, or unsuited in any way for the purpose for which the contemplated services is intended. If any of the said items or any portion thereof are so disapproved, the Consultant shall forthwith revise them until they meet the approval of the 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 are done in accordance with an agreed upon schedule and in accordance with professional standards.

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

7. You shall not continue to render services under this Agreement after the point at which the total amount to be paid to you hereunder, in accordance with the agreed upon Agreement Price Summary in Attachment D - Pricing and Compensation Proposal dated xx/xx/xx and paragraph 8 below, including reimbursable expenses, reaches the Not to Exceed Amount of \$_____ unless you are specifically authorized in writing to so continue by the Director. If no such authorization is issued, this Agreement shall be terminated without further obligation by either of the parties as to services not yet performed, but you shall be compensated as hereinafter provided for services already completed. It is understood, however, that this limitation shall not be construed to entitle you to the above amount as a minimum compensation

8. As full compensation for all of your services and obligations in connection with this Agreement, the Authority will pay you the total of the amounts computed as set forth below, subject to the limits on compensation and provisions set forth in paragraph 7 above. Subject to the terms and conditions below, travel time is not reimbursable unless approved in advance and in writing by the Authority.

A. Consultant's Fixed Fee. For Consultant's satisfactory performance of its services and all of its obligations in connection with this Agreement, the Authority shall pay the Consultant, subject to pro-rata portion thereof due to any suspension or termination of this Agreement as permitted herein, a fixed fee in the amount of \$_____ ("Consultant's Fixed Fee" or "Fee") representing Consultant's profit on the base Agreement. In no event shall a change order for additional services that are within the general scope of this Agreement, result in an increase in the Consultant's Fixed Fee.

B. Direct Personnel Costs. Consultant shall be reimbursed for the actual hourly rates of Consultant's full-time employees ("Personnel") for services on the project. The Pricing and

Compensation Proposal, attached hereto as Attachment D, includes a schedule of the actual hourly labor rates and titles of all Consultant's personnel assigned to the project that have been approved by the Authority, including an organizational chart showing the names and titles of all staff working on the project.

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

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

C. Overhead Rate. The overhead rate of _____% ("Overhead Rate") shall be applied to the Direct Personnel Costs as permitted above. Computation of the Overhead Rate shall include but not be limited to the following indirect cost items: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses, overtime pay, premium pay, parking and car allowance, fringe benefits, retirement plans, union dues, contributions and assessments required by Law, and collective bargaining, and as otherwise in compliance with 48 CFR Part 31, "*CONTRACT COST PRINCIPALS AND PROCEDURES*".

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

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

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

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

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

D. All subconsultants performing services hereunder are subject to the advance written approval of the Authority. The Consultant shall be reimbursed for the costs of subconsultants in accordance with provisions A, B, and C above, which shall only include an amount equivalent to the aggregate amount actually paid to subconsultants by Consultant. Under no circumstances shall any subconsultant agreement, at any tier, contain a cost-plus-percentage-of-cost compensation structure.

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

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

- a. If the Consultant uses its own facilities to reproduce such documents, an amount computed in accordance with the billing rates the Consultant customarily charges for reproduction of such documents on agreements such as this, or
- b. If the Consultant uses an outside vendor for the reproduction of such documents, the actual, necessary and reasonable amounts for the reproduction of such documents.

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

3) When the Consultant uses his personal vehicle to provide services within the Port District, the Consultant shall be reimbursed for travel expenses beyond normal commuting costs at a rate not higher than the Annual Federal Mileage Reimbursement Rate, as determined by the General Services Administration (GSA) - <http://www.gsa.gov/portal/content/100715>, per mile traveled by auto.

4) When the Consultant is asked to provide services outside the Port District, the actual cost of coach transportation as well as the cost for hotel accommodations and meals shall be reimbursable hereunder when approved in advanced in writing by the Director. The cost for all meals and lodging on approved overnight trips are limited to the amounts established by the United States General Services Administration for that locality.

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

5) You shall obtain the Director's written approval prior to making expenditures for out-of-pocket expenses in excess of one thousand dollars (\$1,000) per specific expenditure and for all overnight trips, which are reimbursable expenditures as set forth above. You shall substantiate all billings for out-of-pocket expenses in excess of twenty five dollars (\$25) with receipted bills and provide said receipts with the appropriate billing.

E. As used herein:

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

"Salaries paid to employees" or words of similar import mean salaries and amounts actually paid (excluding payments or factors for holidays, vacations, sick time, bonuses, profit participations and other similar payments) to architects, engineers, designers, drafters or other professional and technical employees of the Consultant for time actually spent directly in the performance of technical services hereunder and recorded on daily time records which have been approved by the employee's immediate supervisor, excluding the time of any employee of the Consultant to the extent that the time of such employee of the Consultant is devoted to typing/word processing, stenographic, clerical or administrative functions. Such functions shall be deemed to be included in the Overhead Rate referred to in paragraph 8.C above.

F. All costs under this Agreement will be allowed to the extent permitted under 48 CFR Part 31. "*CONTRACT COST PRINCIPALS AND PROCEDURES*".

See: www.acquisition.gov/far/97-03/html/31.html

9. The Authority reserves the right to make changes to any portion of the Work.

A. The Consultant shall immediately notify the Authority, in writing, of any change in the work scope either requested by the Authority or desired by the Consultant. Such notice shall be in the form of an "Initial Notice of Change" and shall include a detailed Statement of Work describing the change and the reasons for it. Upon the Authority's acknowledgment of the proposed change order, the Consultant will be requested to submit a Cost Proposal that must include the estimated hours by element of work and the applicable fully loaded hourly rate(s), other direct charges, if any, and subconsultant charges, if any, in the same detail as cost elements for the Consultant, in accordance with the provisions of this Agreement related to compensation, as well as any schedule adjustment arising from the change. The amounts to which both parties agree with the proposed change will be incorporated into the Agreement by issuance of a Change Order.

B. If the Consultant does not agree with any schedule or cost decision of the Authority related to said change, the Consultant shall diligently perform all such work as directed by the Authority. The Consultant must issue any related claim to the Authority within five (5) work-days of the Authority's request to perform said change. Upon receipt, the Authority may consider the claim. If accepted, in whole or part, Authority will issue a Change Order. The performance of all such services shall comply with the requirements of this Agreement except as otherwise mutually agreed upon by the parties, in writing.

The Authority reserves the right to delete any item of the work in whole or in part. The Director must authorize such deletions in writing.

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

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

11. On or about the fifteenth (15th) day of each month, you shall render a bill for services performed and reimbursable out-of-pocket expenses incurred in the prior month, accompanied by such records and receipts as required, to the Project Manager. Each invoice shall bear your taxpayer number and the purchase order number provided by the Director. Upon receipt of the foregoing, the Director will estimate and certify to the Authority the approximate amount of compensation earned by you up to that time. As an aid to you the Authority shall, within fifteen days after receipt of such certification by the Director, advance to you by check the sum certified minus all prior payments to you for your account.

12. A. The United States Government shall not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Agreement, and you shall hold the United States Government harmless from all claims arising from, or related to, completion of the Project or your continuing compliance with the terms, conditions, and assurances in this Agreement.

B. The Authority and the FAA shall have reasonable access during normal business hours to all of your records and documents relating to any amounts for which you have been compensated, under or in connection with this Agreement. You shall obtain for the Authority and the FAA similar access to similar records and documents of your consultant, your contractor, and their subconsultants and subcontractors and materialmen, if any. Such access shall be given or obtained and such records shall be maintained, both before and within a period of three years after final completion of the project.

C. You agree that you shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner upon which Federal funds have been expended. For the purposes of this Agreement, the term "Federal funds" means funds however used or disbursed to you that were originally paid pursuant to this Agreement.

13. Termination.

A. For Cause. The Authority may at any time for cause terminate this Agreement as to any services not yet rendered. 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.

B. For Convenience. In addition to all other rights of revocation or termination hereunder and notwithstanding any other provision of this Agreement, the Authority may terminate this Agreement and the rights of the Consultant hereunder without cause at any time upon three (3) days written notice to the Consultant and in such event this Agreement shall cease and expire on the date set forth in the notice of termination as fully and completely as though such date were the original expiration date hereof and if such effective date of termination is other than the last day of the month, the amount of the compensation due to the Consultant from the Authority shall be prorated when applicable on a daily basis. Such cancellation shall be without prejudice to the rights and obligations of the parties arising out of portions already performed but no allowance shall be made for anticipated profits.

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

15. 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.

16. 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.

17. 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.

18. Mylars of the contract drawings, originals of technical specifications, estimates, reports, records, data, charts, documents, renderings, computations, computer tapes or disks, and other papers of any type whatsoever, whether in the form of writing, figures or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of the Authority, and the Authority shall have the right to use or permit the use of them and of any ideas or methods represented by them for any purpose and at any time without other 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 to this Agreement or not. This Agreement shall not be construed, however, to require the Consultant to obtain for the Consultant and the Authority the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless owned by the Consultant, 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 in which it has been or may be given by you or on your behalf, whether prior or subsequent to the execution of this Agreement, to the Authority, its Commissioners, officers, agents or employees, is not given in confidence and may be used or disclosed by or on behalf of the Authority without liability of any kind, except as may arise under valid existing or pending patents, if any.

19. 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.

20. Notwithstanding anything to the contrary herein, the work product of the Consultant, its officers, agents, employees, or subconsultants which is produced in accordance with the Agreement, whether it consists of computer programming or documentation thereof, including source code, and on any media whatsoever, shall be deemed to belong exclusively to the Authority, and the Authority shall have the exclusive right to obtain and to hold in its own name any and all copyrights, patents, trade secrets or other proprietary rights and protection as may be produced as part of this work product, including the right to extensions or renewals, where appropriate. The work product shall not be destroyed or released to anyone outside of the Authority without express written authorization of the Director. The Authority will have the exclusive right to use or permit the use of them and any ideas or methods represented by them for any purpose and at any time without other compensation than that specifically provided for herein. You agree to contract with your employees for the benefit of the Authority to ensure that the Authority has such rights and to give to the Authority or any party designated by the Authority all assistance reasonably required to perfect the rights herein above stated. You shall indemnify and hold harmless the Authority against any claims of proprietary rights infringement arising out of such use of your work product.

21. You shall promptly and fully inform the Director, in writing, of any intellectual property disputes, as well as any intellectual property rights or 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.

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

23. Disadvantaged Business Enterprise (DBE) Program

A. The requirements for the Disadvantaged Business Enterprise (DBE) program are set forth in U.S. Department of Transportation (DOT) Title 49 Code of Federal Regulations Part 26 (49 CFR Part 26) and is incorporated into this Agreement by reference.

B. The DBE participation goal for this Agreement is 17%.

C. This regulation applies to all agreements that include any federal funds; therefore the Consultant agrees to include the clauses cited below in all agreements for this project and to enforce such clauses. With regards to paragraph 2) below, the Consultant agrees to pay each subcontractor within 7 days of receipt of payment from the Authority.

D. The Consultant agrees to include the following clauses (printed in *Italics*) in all agreements and subcontracts:

1) The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract and shall carry out the applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted agreements. This regulation is incorporated into this agreement by reference. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the Authority deems appropriate. This provision shall likewise apply to each subconsultant at each tier.

2) The Consultant agrees to pay each subconsultant on this project for satisfactory performance of its subcontract no later than seven (7) days from the receipt of each payment received from the Authority or within such later period as is provided in the subcontract.

3) 49 CFR Part 26 is incorporated into this Agreement by reference.

4) The DBE participation goal for this agreement is 17%.

5) The obligation of the Consultant is to make good faith efforts to meet the Agreement DBE participation goal of 17%. The Consultant can demonstrate that it has done so by meeting the Agreement goal or documenting good faith efforts. See Section 26.53 and Appendix A of 49CFR Part 26 for descriptions and discussions of good faith efforts. The Authority is responsible for determining whether a Consultant that has not met the Agreement goal has documented sufficient good faith efforts to be regarded as responsible.

E. Assistance is available from the Authority's Office of Business Diversity and Civil Rights to identify DBE firms and to answer any questions related to the preparation and submission of the DBE Participation Plan (Exhibit III). Questions can be addressed to Robert Foreman at (212) 435-7818 or email at rforeman@panynj.gov. The Authority through the New York State and New Jersey Uniform Certification Programs (UCP) maintains Directories identifying all DBE firms. The Directories list the DBE firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. Each state UCP revises the Directory periodically. The Authority makes the Directories available as follows:

1) New York State UCP Directory: www.nysucp.net

2) New Jersey UCP Directory: www.njucp.net

24. NOTIFICATION OF SECURITY REQUIREMENTS

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

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

- Consultant identity checks and background screening

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

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

- As of January 29, 2007, the Secure Worker Access Consortium (S.W.A.C.) is the only Authority approved provider to be used to conduct background screening and personal identity verification, except as otherwise required by federal law and/or regulation (such as the Transportation Worker Identification Credential for personnel performing in secure areas at Maritime facilities). Information about S.W.A.C., instructions, corporate enrollment, online applications, and location of processing centers is located at <http://www.secureworker.com>, or S.W.A.C. can be contacted directly at (877) 522-7922 for more information and the latest pricing. If approved by the Project Manager, the cost for said background checks for staff that pass and are granted a credential shall be reimbursable to the Consultant as an out-of-pocket expense as provided herein. Staff that are rejected for a credential for any reason are not reimbursable. Issuance of Photo Identification Credential.

No person shall be permitted on or about the Authority construction site or facility (including rental spaces) without a facility-specific photo identification credential approved by the Authority. If the Authority requires facility-specific identification credential for the Consultant, the Authority will supply such identification at no cost to the Consultant. Such facility-specific identification credential shall remain the property of the Authority and shall be returned to the Authority at the completion or upon request prior to completion of the individual's assignment at the specific facility. It is the responsibility of the appropriate Consultant to immediately report to the Authority the loss of any staff member's individual

facility-specific identification credential. The Consultant shall be billed for the cost of the replacement identification credential. Staff shall display Identification badges in a conspicuous and clearly visible manner, when entering, working or leaving an Authority construction site or facility.

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

- Designated Secure Areas

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

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

- Access control, inspection, and monitoring by security guards

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

- Compliance with the Port Authority Information Security Handbook

The Agreement may require access to Port Authority information considered Protected Information (“PI”) as defined in the Port Authority Information Security Handbook (“Handbook”), dated October, 2008, corrected as of November 14, 2013, and as may be further amended. The Handbook and its requirements are hereby incorporated into this agreement and will govern the possession, distribution and use of PI if at any point during the

lifecycle of the project or solicitation it becomes necessary for the Consultant to have access to PI. Protecting sensitive information requires the application of uniform safeguarding measures to prevent unauthorized disclosure and to control any authorized disclosure of this information within the Port Authority or when released by the Port Authority to outside entities. The Handbook can be obtained upon request or at: <http://www.panynj.gov/business-opportunities/pdf/Corporate-Information-Security-Handbook.pdf>

- Audits for Compliance with Security Requirements

The Authority may conduct random or scheduled examinations of business practices under this section and the Handbook in order to assess the extent of compliance with security requirements, PI procedures, protocols and practices, which may include, but not be limited to, verification of background check status, confirmation of completion of specified training, and/or a site visit to view material storage locations and protocols.

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

24. 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 of loss or damage to any property of the Consultant or its subconsultants arising out of or in connection with the performance of services hereunder;

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

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

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

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

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

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

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

25. 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.

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

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

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

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

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

D. this organization has not made any offers or agreements or taken any other action with respect to any Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics dated March 11, 2014, or as may be revised (a copy of which is available upon request to the Authority), nor does this organization have any knowledge of any act on the part of an Authority employee or former Authority employee relating either directly or indirectly to this organization which constitutes a breach of the ethical standards set forth in said Code;

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

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

G. no person or organization has been retained, employed or designated on behalf of the Consultant to impact any Authority determination with respect to (i) the solicitation, evaluation

or award of this Agreement; or (ii) the preparation of specifications or request for submissions in connection with this Agreement.

The 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 "26G.", 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, has failed to immediately notify the Authority of any change in circumstances which might make it unable to make the foregoing certifications, might render any portion of the certifications previously made invalid, or require disclosure, or has willfully or fraudulently furnished a signed statement which is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the

foregoing certifications required to be disclosed, the Authority may determine that the Consultant is not a responsible Consultant with respect to its proposal on the Agreement or with respect to future proposals on Authority agreements and may exercise such other remedies as are provided to it by the Agreement with respect to these matters. In addition, Consultants are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see, e.g. New York Penal Law, Section 175.30 et seq.). Consultants are also advised that the inability to make such certification will not in and of itself disqualify a Consultant, and that in each instance the Authority will evaluate the reasons therefor provided by the Consultant. Furthermore, the Consultant selected for performance of the subject services shall immediately notify the Authority in writing, at any time during the term of the Agreement, of any change of circumstances which might under this clause make it unable to make the foregoing certifications, or might require disclosure.

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

27. 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.

28. CONSULTANT RESPONSIBILITY, SUSPENSION OF WORK AND TERMINATION

The Consultant shall at all times during the Agreement term remain responsible. The Consultant agrees, if requested by the Authority to present evidence of its continuing legal authority to do

business in the States of New Jersey or New York, integrity, experience, ability, prior performance, and organizational and financial capacity.

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

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

29. NO GIFTS, GRATUITIES, OFFERS OF EMPLOYMENT, ETC.

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

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

The Consultant shall 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.

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

In addition, during the term of this Agreement, the Consultant shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated March 11, 2014, or as may be revised (a copy of which is available upon request to the Office of the Secretary of the Authority).

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

30. 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. The Director may require the Consultant to submit a mitigation plan addressing and mitigating any disclosed or undisclosed conflict, which is subject to the approval of the Director and shall become a requirement, as though fully set forth in this Agreement. In the event the Director shall determine that the performance by the Consultant of a portion of its services under this Agreement is precluded by the provisions of this numbered paragraph, or a portion of the Consultant's said services is determined by the Director to be no longer appropriate because of such preclusion, then the Director shall have full authority on behalf of both parties to order that such portion of the Consultant's services not be performed by the Consultant, reserving the right, however, to have the services performed by others and any lump sum compensation payable hereunder which is applicable to the deleted work shall be equitably adjusted by the parties. The Consultant's execution of this document shall constitute a representation by the Consultant that at the time of such execution the Consultant knows of no circumstances, present or anticipated, which come within the provisions of this paragraph or which might otherwise be viewed as or give the appearance of a conflict of interest on the Consultant's part. The Consultant acknowledges that the Authority may preclude it from involvement in certain disposition/privatization initiatives or transactions that result from the findings of its evaluations hereunder or from participation in any agreements which result,

directly or indirectly, from the services provided by the Consultant hereunder. The Authority's determination regarding any questions of conflict of interest shall be final.

31. DEFINITIONS

As used in sections 25 to 30 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.

32. 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.

33. 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.

FIRM NAME

- PAGE 21 -

DATE

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

Sincerely,

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

Lillian D. Valenti
Chief Procurement Officer
Procurement Department

Date _____

ACCEPTED:
FIRM NAME

By: _____

Title: _____

Date: _____

INSTRUCTIONS

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

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

ATTACHMENT B

REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL SERVICES FOR FAR PART 150 NOISE COMPATIBILITY STUDIES (RFP #39942)

AGREEMENT ON TERMS OF DISCUSSION

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

Notwithstanding the above, and without assuming any legal obligation, the Port Authority will employ reasonable efforts, subject to the provisions of the Port Authority Freedom of Information Code and Procedure 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 Proposer as proprietary, as more fully set forth in the FOI Code, which may be disclosed by the undersigned to the Port Authority as part of or in connection with the submission of a proposal.

(Company)

(Signature)

(Title)

(Date)

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

ATTACHMENT C

COMPANY PROFILE

REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL SERVICES FOR FAR PART 150 NOISE COMPATIBILITY STUDIES (RFP #39942)

1. Company Name (print or type):

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

3. Business Telephone Number: _____

4. Business Fax Number: _____

5. Firm website: _____

6. Federal Employer Identification Number (EIN): _____

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

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

9. Officer or Principal of Firm and Title:

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

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

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

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

EXHIBIT I

FEDERAL REGULATIONS

The Consultant will comply with all applicable federal laws, regulations, executive orders, policies, guidelines and requirements as they relate to the use of Federal funds for this project including but not limited to the following:

A. Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1 2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.¹
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.¹
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

B. Executive Orders

- a. Executive Order 11246 - Equal Employment Opportunity¹
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 - Environmental Justice

C. Federal Regulations

- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].^{4, 5, 6}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures¹⁴ 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.^{1 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

D. AIP Handbook Order 5100.38C, Chapter 9, Section 2

NOTES:

- (1) These laws do not apply to airport planning sponsors.
- (2) These laws do not apply to private sponsors.
- (3) 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and local governments receiving Federal assistance. Any requirement levied upon State and local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under the Airport and Airway Improvement Act of 1982, as amended.
- (4) On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.
- (5) On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.
- (6) Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

Specific assurances required to be included in this contract by the grant agreement between the FAA and the Port Authority are incorporated in this contract by reference to the above.

EXHIBIT II
FEDERAL AVIATION ADMINISTRATION REQUIREMENTS

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A. INCORPORATION OF FEDERAL AVIATION ADMINISTRATION TERMS

This Contract is anticipated to be partially funded by United States Department of Transportation's Federal Aviation Administration (FAA).

Anything to the contrary herein notwithstanding, all mandated terms by the FAA shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Consultant shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests that would cause the Authority to be in violation of the FAA terms and conditions.

Each and every provision required by the FAA to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein. If any provision of this Contract shall be such as to effect non-compliance with any FAA requirement, such provision shall not be deemed to form part hereof, but the balance of this Contract shall remain in full force and effect. All mandated terms apply to subcontracts.

B. FEDERAL CHANGES

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

C. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

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

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

D. DEFINITIONS

For the purposes of this Exhibit II:

“Contractor” means Consultant.

“Contract” means Agreement.

“Bidder,” or “Offeror,” mean Proposer.

“Sponsor” means The Port Authority of New York and New Jersey.

E. ACCESS TO RECORDS AND REPORTS.

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

F. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

A. Timetables

B. Goals for minority participation for each trade (Vol. 45 Federal Register pg. 65984 10/3/80)

C. Goals for female participation in each trade (6.9%)

These goals are applicable to all of the contractor's construction work (whether or not it is Federal or federally-assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor is also subject to the goals for both federally funded and non-federally funded construction regardless of the percentage of federal participation in funding.

The contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet

the goals. The hours of minority and female employment and training shall be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project, for the sole purpose of meeting the contractor's goals, shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The contractor shall provide written notification to the Director, Office of Federal Contract Compliance Programs (OFCCP), within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is [insert description of the geographical areas where the contract is to be performed giving the state, county, and city, if any].

G. BREACH OF CONTRACT TERMS.

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

H. BUY AMERICAN PREFERENCE.

BUY AMERICAN CERTIFICATION

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must submit the appropriate Buy America certification (below) with all bids or offers on AIP funded projects. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

Type of Certification is based on Type of Project:

There are two types of Buy American certifications.

- For projects for a facility, the Certificate of Compliance Based on Total Facility (Terminal or Building Project) must be submitted.
- For all other projects, the Certificate of Compliance Based on Equipment and Materials Used on the Project (Non-building construction projects such as runway or roadway construction; or equipment acquisition projects) must be submitted.

Certificate of Buy American Compliance for Total Facility
(Buildings such as Terminal, SRE, ARFF, etc.)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark (✓) or the letter “X”.

- Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:
- a) Only installing steel and manufactured products produced in the United States; or
 - b) Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
 - c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
 2. To faithfully comply with providing US domestic products
 3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.

2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may results in rejection of the proposal.
3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
4. To furnish US domestic product for any waiver request that the FAA rejects.
5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver - The cost of components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the “facility”. The required documentation for a type 3 waiver is:

- a) Listing of all manufactured products that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c) Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

Type 4 Waiver – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a) Detailed cost information for total project using US domestic product
- b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

* * * * *

Certificate of Buy American Compliance for Manufactured Products

(Non-building construction projects, equipment acquisition projects)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter “X”.

Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:

- a) Only installing steel and manufactured products produced in the United States, or;
- b) Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
- c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- 2. To faithfully comply with providing US domestic product
- 3. To furnish US domestic product for any waiver request that the FAA rejects
- 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

1. To submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver - The cost of the item components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the “item”. The required documentation for a type 3 waiver is:

- a) Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c) Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a) Detailed cost information for total project using US domestic product
- b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

* * * * *

I. CIVIL RIGHTS - GENERAL.

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property.

J. CIVIL RIGHTS – TITLE VI ASSURANCES.

i.) Title VI Solicitation Notice

The Port Authority of New York and New Jersey, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this

advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

ii.) Compliance with Nondiscrimination Requirements

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the **Title VI List of Pertinent Nondiscrimination Statutes and Authorities**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

iii. Title VI List of Pertinent Nondiscrimination Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;

- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*)

K. CLEAN AIR AND WATER POLLUTION CONTROL.

Contractors and subcontractors agree:

1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
3. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
4. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements. **CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS.**

L. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS.

1. Overtime Requirements.

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

- 2 Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

- 3 Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4 Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

M. DEBARMENT AND SUSPENSION (NON-PROCUREMENT).

i. CERTIFICATE REGARDING DEBARMENT AND SUSPENSION (BIDDER OR OFFEROR)

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

ii. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION (SUCCESSFUL BIDDER REGARDING LOWER TIER PARTICIPANTS)

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>
2. Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA later determines that a lower tier participant failed to tell a higher tier that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedy, including suspension and debarment.

N. DISADVANTAGED BUSINESS ENTERPRISE.

- i. Contract Assurance (§ 26.13) - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.
- ii. Prompt Payment (§26.29))- The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than {specify number} days from the receipt of each payment the prime contractor receives from {Name of recipient}. The prime contractor agrees further to return retainage payments to each subcontractor within {specify the same number as above} days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the {Name of Recipient}. This clause applies to both DBE and non-DBE subcontractors.

O. ENERGY CONSERVATION REQUIREMENTS.

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

P. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Federal Fair Labor Standards Act (29 USC 201)	U.S. Department of Labor – Wage and Hour Division

Q. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES.

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

R. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

S. RIGHT TO INVENTIONS.

All rights to inventions and materials generated under this contract are subject to requirements and regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

T. TERMINATION OF CONTRACT.

a. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.

b. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.

c. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.

d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination will be deemed to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price will be made as provided in paragraph 2 of this clause.

e. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

U. TRADE RESTRICTION

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);

b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;

c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

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

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

V. VETERAN'S PREFERENCE

In the employment of labor (except in executive, administrative, and supervisory positions), preference must be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Title 49 United States Code, Section 47112. However, this preference

shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

EXHIBIT III
THE PORT AUTHORITY OF NY & NJ – OFFICE OF BUSINESS DIVERSITY AND CIVIL RIGHTS
DBE PARTICIPATION PLAN AND AFFIRMATION STATEMENT

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

CONTRACT NUMBER AND TITLE: _____

PROPOSER:

Name of Firm: _____

Address: _____ Telephone: _____

Email Address: _____

DBE:

Name of Firm: _____

Address: _____ Telephone: _____

Description of work to be performed by DBE: _____

Calculation (supply only): _____

The Proposer is committed to utilizing the above-named DBE for the work described above. The estimated dollar value of this work is \$_____ or _____% of the total contract amount of \$_____. The anticipated start date is _____ and the anticipated completion date is _____.

AFFIRMATION

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

By: _____ Date: _____
Signature of DBE and Title

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

By: _____ Date: _____
Signature of Proposer and Title

FOR OBDCR USE ONLY

Contract Goals: Approved Rejected Preliminary Plan Approved

Reviewed By: _____

OBDCR Business Development Representative

Signature: _____ Date: _____

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