

August 8, 2019

SUBJECT: REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT PROFESSIONAL INVESTMENT MANAGEMENT SERVICES FOR THE PORT AUTHORITY OF NEW YORK & NEW JERSEY - OTHER POST-EMPLOYMENT BENEFITS (OPEB) TRUST 2019 THROUGH 2022 (RFP#58422)

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 firm (the “Firm”) to provide Expert Professional Investment Management Services for the Port Authority’s Other Post-Employment Benefits (OPEB) Trust Insurance Program.

The scope of the services to be performed by you are set forth in Attachment A (Scope of Services) to the Authority’s standard agreement (the “Agreement”) attached herewith. The Authority reserves the right, at its sole discretion, to extend the Agreement with the selected Firm for up to three (3) additional one (1) year periods, upon the same terms, conditions and pricing, unless otherwise agreed to by the Authority. A letter extending the Agreement term shall be sent to the Consultant at least 30 days prior to the end of the term signed by the Treasurer.

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.

I. PROPOSER REQUIREMENTS:

The Authority will consider only those firms who are able to demonstrate compliance with the following minimum qualifications requirements:

- A. Demonstrate they are a registered investment advisor under the Investment Advisors Act of 1940 or provide proof of exemption.
- B. Demonstrate they have at least \$5 billion in assets under management and have been in business for a minimum of five (5) years.
- C. Provide evidence that they are currently managing at least five (5) accounts with similar investment guidelines as those outlined in the Attachment E (Investment Policy Statement).

If the proposal is submitted by a common law joint venture, at least one (1) member must meet the requirements listed above. If the proposal is submitted by a common law joint venture, a joint venture that has not been established as a distinct legal entity, each participant of the joint venture shall be held jointly and severally liable and must individually execute and perform all acts required by this proposal. Documents signed by a common law joint venture, in connection with this proposal, shall include the names of all participants of the joint venture followed by the words “acting jointly and severally.”

A determination that a Proposer meets the above requirements is no assurance that the Proposer will be selected for the performance of the subject services. Firms that fail to meet these requirements will not be considered.

II. PROPOSAL FORMAT REQUIREMENTS:

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

- A. To be acceptable, this Proposal shall be no more than **30** single-sided pages or **15** double-sided pages, using 12 point or greater font size, not including resumes. Each resume shall be a maximum of **2** single-sided pages or **1** double-sided page, using 12 point or greater font size. The page limit pertains only to Letters F, G and H in Section III, below. The Proposal pages shall be numbered and spiral bound (no three-ring binders) with **Your Firm Name** and **RFP Number** clearly indicated on the cover. Product brochures and sales literature should not be appended to the RFP.
- B. Separate each section of the Proposal with a tab divider that is labeled in accordance with the letter of the requirements specified below in Section III.
- C. All proposals must be delivered in sealed envelopes and/or packages. Address the Proposal to: The Port Authority of New York and New Jersey, 4 World Trade Center, 21st Floor, New York, NY 10007, Attention: RFP Custodian. You are requested to submit one (1) reproducible original and six (6) copies, along with one compact disc (CD) copy of your Proposal for review. USB Flash drives will not be accepted. In case of conflict, the reproducible original of the Proposal shall take precedence over material on the CD(s).
- D. In each submission to the Authority, including any return address label, information on the CD and information on the reproducible original and copies of the proposal, the Proposer shall use its FULL LEGAL NAME WITHOUT ABBREVIATIONS. Failure to comply with this requirement may lead to delays in contract award and contract payments, which shall be the responsibility of the Proposer.
- E. Your Proposal should be forwarded in a timely manner so that the Authority receives it **no later than 2:00 p.m. Eastern Time (ET) on August 28, 2019**. 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.

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

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

vendor with approved recurring delivery times. UPS makes deliveries to 4 WTC around 9:30 a.m. each day. Please plan your submission accordingly. As additional express carriers may be approved by Silverstein Properties and scheduled for recurring delivery times with the VSC, this information may be updated. Under certain circumstances, a solicitation may allow for a commercial vehicle to be approved to make a delivery in accordance with the VSC procedures. If applicable, the specific solicitation document will include that information. The Port Authority assumes no responsibility for delays, including, but not limited to, delays caused by any delivery services, building access procedures, or security requirements.

III. SUBMISSION REQUIREMENTS:

To respond to this RFP, provide the following information:

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

Submit the transmittal letter on letterhead, signed by an authorized representative, demonstrating compliance with each of the aforementioned "Proposer Requirements." For all projects referenced, include the name of the company, a contact person and current telephone number for verification purposes.

Include a statement indicating whether you are proposing as a single entity, or as a joint venture.

- 1. If a common-law joint venture submits a proposal, all participants in the joint venture shall be bound jointly and severally, and each participant shall execute the proposal. If a 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).
- 2. 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 liabilities 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. Staff Qualifications and Experience

In this section, detail the experience of key individuals (including subconsultants, if any) to be responsible for the successful completion of the contemplated services in Attachment A (Scope of Services) and highlight their relevant experience and technical capabilities.

1. Provide a matrix, listing the names, titles, firm, responsibility for the services and the resumes of all personnel who will be assigned to perform any services requested under this Agreement.
2. Resumes must include education levels, chronological work history, relevant licenses and certifications, and should clearly identify the years of experience and technical capabilities in the field related to the tasks for which the individual will be responsible.
3. If there are any investment professionals currently under employment contracts, please discuss the nature of the contracts.
4. Describe any contingent procedures that will be in place in the event that a key investment professional assigned to the account should leave the firm.
5. Identify your firm's qualifications requirements and training program (initial, ongoing, and periodic), including requirements for the members of the investment management team.

F. Firm Qualifications and Experience

1. Provide a composite of similarly structured accounts (OPEB and or Pension Trusts) along with their appropriate benchmarks. Provide the portfolio returns attained for at least the past 5 years (or more preferably 10 years), including the year to date, one-year, three-year, five-year, and if possible, ten-year annualized returns, and the annual calendar year returns for the periods ending December 31, 2018.
2. Describe your firm's experience in managing funds similar to that of the OPEB Trust fund, and in performing the scope of services outlined in this RFP.
3. Provide a representative client list, the size of portfolio, the number of OPEB Trust clients (if any), and the number of clients who are public agencies. Include at least three client references.
4. Provide the following: (a) total dollar value of assets under management, (b) a total number of accounts currently managed by your firm, and (c) a breakdown between the clients using a passive style and an active style of investing.
5. Indicate the number of accounts included in your client base in terms of assets under management. Please segment as follows:
 - Under \$5 million,
 - \$5 million to \$25 million;
 - \$26 million to \$100 million;
 - \$101 million to \$500 million; and
 - \$501 million or more.
6. List any pending administrative proceedings, investigations, and civil suits against the firm related to the firm's performance of professional duties.
7. List all litigation or proceedings to which your firm is a party and which would either (a) materially impair your ability to perform the services enumerated herein and for

which this RFP was issued, or (b) if decided in an adverse manner, could be reasonably expected to have a material adverse effect on the financial condition of your firm.

8. Describe your firm's philosophy regarding account or relationship management.
9. Please explain in no more than one (1) page your firm's competitive advantage and why your firm should be hired to provide these services.
10. Describe your firm's history and organization structure. Include the number of years in business, size of company (number of employees, yearly revenue, and total assets under management).
11. Describe your firms' ownership, capital structure, and specific details of any affiliated companies or joint ventures or affiliations with other financial or investment management firms. Specify the percentage owned by principals.
12. Provide an organizational chart that diagrams the interrelationships between the professional staff and any parent-subsidiary, affiliate, or joint venture entities.
13. Discuss the financial condition of the firm based on the most recently audited financial statements and annual report.
14. Discuss if your firm has a recent Service Organization Control Report. If so, identify the auditing firm and their opinion.

G. Technical Approach

Discuss in detail the technical approach that your firm will utilize in completing the requested services described in Attachment A (Scope of Services). In your technical approach, please also include responses to the following:

1. Investment Policy

- (a) Under the current Investment Policy Statement contained in Attachment E (Investment Policy Statement), the Authority's OPEB Trust invests in a combination of active and passive investments. Do you agree that this is the best structure for the Authority's OPEB Trust? If not, what changes would you recommend and what is the basis for such recommendations?
- (b) Explain which benchmark you would use to measure the performance of the OPEB Trust portfolio under its current investment makeup, and the benchmark you would use under your recommended portfolio if different. Support your suggestion with empirical evidence.
- (c) Describe the investment program you are proposing based on the Authority's objectives, including the types of securities you propose to purchase, and how the funds will be managed after the initial investments are made.
- (d) Discuss the frequency of which a similarly sized/structured portfolio under your firms' management would be rebalanced.
- (e) Referring to the current Investment Policy Statement contained in Attachment E (Investment Policy Statement), would you recommend any revisions or changes to the current policy? If so, provide detailed explanations for the basis of the recommended changes, the expected improvement in the overall performance of the OPEB Trust, and the basis for measuring such improvements.

2. Asset Allocation

- (a) Describe with specific details how your firm currently derives its asset allocation recommendations and how the asset allocation decisions are made going forward. What specific buy and sell signals/indications do you use to make your decisions?
- (b) Describe with specific detail what would prompt your firm to increase or decrease an allocation to an existing asset class in the portfolio, or to establish a new position in an asset class in the portfolio?
- (c) The Authority is committed to including MWBE firms in new business opportunities, and the scope of services requires that 30% of the portfolio be subcontracted to one or more MWBE firms. Please present a plan on how your firm will incorporate the use of one or more MWBE firms to manage this portion of the OPEB Trust.
- (d) How would your firm hire, partner, or otherwise incorporate these MWBE firms into your asset allocation? Please provide a time frame with specific goals for hiring the MWBE firms.
- (e) What changes would you recommend to the existing asset allocation as stated within the scope of services contained in Attachment A (Scope of Services)?

3. Performance

- (a) Provide the two composites; Composite #1 is your firm's composite that most closely resembles the Authority's Investment strategy as set forth in Attachment E (Investment Policy Statement), and Composite #2 is your firm's composite that represents the investment strategy that your firm is recommending. Provide the portfolio returns for at least the past five years, or more preferably 10 years, including the year-to-date, one-year, three-year, five-year, and if possible ten-year annualized returns and annual calendar year returns for the period ending December 31, 2018.
- (b) The goal of the Authority is to earn a 7% rate of return, net of fees, over a 10 to 15-year time horizon. In your firm's estimation, will the current asset allocation of the Authority's OPEB portfolio achieve this level of return, net of fees, over this period based upon the existing risk parameters? Please explain.
- (c) If in your opinion, the current asset allocation in the Authority's OPEB Trust will not achieve a 7% rate of return, net of fees, over a 10 to 15-year time horizon, what asset allocation would you suggest in order to achieve this target? Provide performance/risk analytics to support your response.
- (d) Which benchmark would you use to measure the performance of the Authority's portfolio? Please explain. What empirical evidence can you show to support your suggestion?

4. Reporting

- (a) Provide a sample of your firm's monthly reporting package. This package should include at a minimum, a performance statement, capital markets outlook, economic commentary, and an accounting statement.

- (b) Describe the timeframe in which your firm is able to provide accurate final performance, asset and transactions statements following month-end.
- (c) Describe your firm's online capabilities and ability to deliver monthly portfolio reports electronically by the third business day of the following month.
- (d) Indicate if your firm will be able to conduct quarterly meetings, or as frequently as requested, at the Authority's headquarters in New York City.
- (e) Describe your current support for GAAP accounting, including how your firm conducts "mark to market" valuations for portfolios under management.
- (f) Describe the accounting information and or regulatory assistance your firm will provide that would be beneficial to the OPEB Trust.

5. Risk

- (a) Discuss in detail how your firm measures, monitors, and ensure that risk parameters are in line with portfolio returns and client guidelines.
- (b) How does your firm reduce risk within each asset class that a portfolio invests? When the asset classes are combined to make one portfolio, what is your approach to reducing total portfolio risk?
- (c) Describe what systems are in place for ensuring that portfolio managers are adhering to client guidelines and investment policies.
- (d) Describe in detail your firm's disaster recovery plan - specifically regarding the backup of critical client files and related systems. In the event of a disaster, how long would it take to become fully operational?

H. Management Approach

Provide a detailed description of the proposed management approach to be taken in performance of the required services. This shall include, but shall not be limited to:

- 1. Provide a summary of your risk oversight policy and objectives.
 - 2. Provide an organization chart which identifies the responsibilities of each individual included on the team. Include a list of any intended sub-consultants and their MWBE status.
- I. Complete Attachment D (Cost Proposal Form) for performance of Tasks outlined in Attachment A (Scope of Services).
 - J. A complete list of your firm's affiliates and subsidiaries.
 - K. If the Proposer or any employee, agent or subcontractor/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.

Proposers are advised that, while not currently anticipated, nothing herein shall preclude the Authority from determining at a subsequent point in time during performance of the

services contemplated hereunder gives rise to the existence of, or the appearance of, a conflict of interest, and thereby conclude that a firm(s) selected for performance of the subject services, is/are expressly precluded from participation in, or the performance of other procurement opportunities for any project on which the firm has provided such services. Proposers are directed to paragraph 28 of the attached Agreement.

- L. The selected Consultant shall comply with the requirements of the Agreement. You should therefore not make any changes in this Agreement, nor restate any of its provisions in your Proposal or supporting material. However, if you have any specific exceptions, such exceptions should be set forth in a separate letter included with your 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 tasks to be performed by you is set forth in Attachment A (Scope of Services) to the Authority's Agreement.

IV. SELECTION PROCESS:

The qualifications based selection shall take into consideration the following technical criteria, (listed in order of importance) and subsequently cost, as appropriate:

- A. Qualifications and experience of the staff proposed to perform services hereunder;
- B. Qualifications and experience of the firm, including the quality of similar services provided to others;
- C. Technical approach to the performance of the contemplated services; and
- D. Management approach to the performance of the contemplated services.

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

V. 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 making the presentation shall be led by the proposed lead actuary assigned to the account, who may be supported by no more than two (2) other senior staff members proposed to work on this project. Notification of presentation scheduling will be made by email. Please provide the name, 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.

VI. ADDITIONAL INFORMATION:

The Port Authority embraces a workplace where the values of diversity and inclusion support varying perspectives and backgrounds to produce a richer environment.

The Port Authority expects all our consultants, contractors and vendors, to demonstrate a similar commitment, and undertake every effort to ensure their project teams represent the diverse makeup of the communities in and around the Port District.

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

It is Authority policy that its consultants, contractors and vendors comply with the legal requirements of the States of New York and New Jersey. Your attention is therefore called to New York State’s requirements that certain consultants, contractors, affiliates, subcontractors/subconsultants and subcontractors/subconsultants’ 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.

Proposers are also advised that additional vendor information, including but not limited to forms, documents and other related information, may be found on the Authority website at www.panynj.gov or <http://www.panynj.gov/business-opportunities/become-vendor.html>.

Should you have any questions, please contact Timothy Pullen, Solicitation Manager, at tpullen@panynj.gov. All such correspondence must have your name, title, company, mailing address, telephone number, and state “**RFP 58422**” in the subject line. The Authority must receive all questions no later than 4:00 P.M. Eastern Time, seven (7) working days before the RFP due date. Neither Mr. Pullen, 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. For RFP updates and Addenda, if any, Proposers are encouraged to access, and monitor, the Authority website at <http://www.panynj.gov/business-opportunities/bid-proposal-advertisements.html>. You should, therefore, monitor the advertisement on said website, as appropriate, to ensure you are aware of changes, if any.

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

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

The Authority reserves the 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
Assistant Director
Procurement Department

Attachments

Attachment A – Scope of Services
Attachment B – Agreement on Terms of Discussion
Attachment C – Company Profile
Attachment D – Cost Proposal
Attachment E – Investment Policy Statement for the PANYNJ Retiree Health Benefits Trust
Attachment F – Draft Agreement

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL INVESTMENT MANAGEMENT SERVICES FOR OTHER POST-EMPLOYMENT BENEFITS (OPEB) TRUST 2019 THROUGH 2022 (RFP#58422)

I. **BACKGROUND**

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

In 2006, the Port Authority implemented an employee benefits trust which provides funding for health, prescription, dental, vision and life insurance benefits for retired employees of the Authority and their eligible dependents. Collectively, these benefits are commonly referred to as other post-employment benefits (OPEB). In 2007, Wells Fargo Bank, N.A. – Institutional Trust Services, was selected as the Trustee for the Authority’s OPEB Trust.

As of December 31, 2018, the OPEB Trust had approximately \$1.4 billion in assets across a range of asset classes utilizing passive investment vehicles. Currently, the Authority contributes \$25 million per quarter, or \$100 million on an annual basis, and intends to continue its contributions subject to periodic assessment of the funds in the Trust and its OPEB commitments.

The allocation of trust assets as of December 31, 2018 is as follows:

Asset Class	Current Allocation
Domestic Equity	35%
International Equity	21%
REITs	4%
Fixed Income	38%
Cash Equivalents	2%

II. **SCOPE OF SERVICES**

The Authority is seeking a firm to provide investment management services in connection with the OPEB Trust. The Authority’s goal is to maximize returns within its risk parameters. Investment, performance and risk guidelines associated with this mandate are included in the “Investment Policy Statement for The Port Authority of New York and New Jersey Health Benefits Trust” attached hereto and made a part hereof as Attachment E (Investment Policy Statement).

III. DESCRIPTION OF CONSULTANT'S TASKS

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

1. Invest the Authority's OPEB Trust fund assets in accordance with the investment criteria set forth in Attachment E (Investment Policy Statement).
2. Research and recommend at least one equity and fixed income Index Fund provider. Each recommended Fund should have a verifiable, highly correlated record of returns compared to each Fund's underlying index.
3. Research and recommend the use of one or more MWBE firms to invest 30% of the portfolio's assets in accordance with the investment policy of the OPEB Trust, and monitor portfolio for compliance with guidelines.
4. Monitor, on a continuous basis, that the Index Fund provider's investments are in compliance with the respective underlying index.
5. Rebalance the portfolio with a method and frequency agreed upon by the Authority to comply with the investment guidelines.
6. Recommend, as needed, changes to the asset allocation mix of the Authority's portfolio in accordance with the investment policy set forth in Attachment E (Investment Policy Statement) to maximize investment returns. Implement such changes only when directed and approved by the Authority.
7. Construction of a benchmark, to be agreed at the commencement of the engagement, to measure the Trust performance which should take into consideration the existing asset allocation guidelines and risk profile and provide ongoing measurement of the Trust's performance versus that benchmark.
8. Measure and monitor risk ensuring that parameters are in line with portfolio returns and the Authority's investment guidelines.
9. Provide monthly written performance reports to the Authority that fully comply with Global Investment Performance Standards (GIPS) of the Association of Investment Management and Research (AIMR) performance reporting standards, and other pertinent information pertaining to the investment of the OPEB Trust funds, as requested by the Authority, by the tenth business day of the following month.
10. Assist the Authority during annual audits by providing auditors with related accounting or regulatory information and or materials in a timely manner as requested.
11. Provide electronic reports on portfolio holdings and transactions that occurred within the portfolio during the month by the third business day of the following month.
12. Periodically reassess the portfolio and make recommendations for changes to the Authority's investment policy set forth in Attachment E (Investment Policy Statement) and/or investments in alternative Index Funds. Implement such changes only when directed and approved by the Authority.
13. Conduct quarterly investment meetings with the Authority and present the performance of the Authority's OPEB Trust portfolio, as well as attend special meetings as requested by the Authority.
14. Reconcile portfolio value and holdings with the Custodian of the Trust.

15. Identify new strategies and innovative portfolio management techniques/concepts, which can be used by the Authority to maximize returns.
16. Comply with the guidelines for an Investment Manager set forth in the body of the Authority's investment policy attached as Attachment E (Investment Policy Statement) hereto.

ATTACHMENT B

**REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT
PROFESSIONAL INVESTMENT MANAGEMENT SERVICES FOR OTHER POST-
EMPLOYMENT BENEFITS (OPEB) TRUST 2019 THROUGH 2021 (RFP# 58422)**

AGREEMENT ON TERMS OF DISCUSSION

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

Any information (including information contained in any proposal, vendor qualification(s), ideas, models, drawings, or other material communicated or exhibited by us or on our behalf) provided in connection with this procurement is subject to the provisions of the Port Authority Public Records Access Policy adopted by the Port Authority's Board of Commissioners, which may be found on the Port Authority website at: <http://corpinfo.panynj.gov/documents/Access-to-Port-Authority-Public-Records/>. The foregoing applies to any information, whether or not given at the invitation of the Authority.

(Company)

(Signature)

(Title)

(Date)

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

ATTACHMENT C
COMPANY PROFILE

**REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT
PROFESSIONAL INVESTMENT MANAGEMENT SERVICES FOR OTHER POST-
EMPLOYMENT BENEFITS (OPEB) TRUST 2019 THROUGH 2022 (RFP #58422)**

1. Company Legal 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 Minority-owned, Woman-owned or Small
Business Enterprise (MBE/WBE/SBE)? ☐ Yes ☐ No

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

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

ATTACHMENT D

Cost Proposal

Proposers must submit their annual compensation schedule for this proposal. The proposed fee shall include all costs for providing investment services to the Authority as described in this RFP. Please list and identify any and all fees charged, such as asset manager fees, Index Fund expense fees, trading fees, separate account or administrative expenses and subconsultant investment management fees. Please also list whether you are proposing to charge a fixed annual fee and/or whether you are proposing to charge asset based fees.

1) Fixed Annual Fee: _____

and/or

2) Asset Based Fees: List total fees charged in basis points.*

Please provide the break points for asset-based fees in the following format.

Market Value of Portfolio	Firm's Fees in Basis Points*	Index Fund Fees
First \$ Million		
Next \$ Million		
Next \$ Million		
Next \$ Million		

*A basis point equals 0.01%

The firm must list on this Attachment D any other fees (if any), it proposes to charge the Port Authority for providing the scope of services set forth under this agreement.

NOTE: Fees will be paid by the Port Authority quarterly, in arrears. If an asset-based fee structure is used, the fees will be calculated based on the portfolio's average daily market value, as determined by the Custodian of the Trust.

INVESTMENT POLICY STATEMENT

FOR

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY

RETIREE HEALTH BENEFITS TRUST

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Background

The Port Authority of New York & New Jersey (the "Authority") has established the Port Authority of New York & New Jersey Retiree Health Benefits Trust (the "Trust"). The Trust is intended to provide for funding of post-employment health and welfare benefits ("OPEB") provided under various medical, prescription, dental, vision, and life insurance benefit plans to retired employees of the Authority and the eligible dependents of such retired employees and reimbursement of certain Medicare premiums.

Scope

This Investment Policy Statement (the "Policy") reflects the oversight, investment policy, objectives and constraints of the Trust.

Purpose

The main investment objective of the Trust is to achieve long term growth of Trust assets by maximizing long term rate of return on investments and minimizing risk of loss to fulfill the Authority's current and long term OPEB obligations and certain Medicare premiums.

The purpose of the Policy is to achieve the following:

1. Document the key roles and responsibilities of the OPEB Investment Committee.
2. Document investment objectives, performance expectations and investment guidelines for Trust assets.
3. Establish an appropriate investment strategy for managing all Trust assets, including an investment time horizon, risk tolerance ranges and asset allocation to provide sufficient diversification and overall return over the long-term time horizon of the Trust.
4. Establish investment guidelines to control overall risk and liquidity.
5. Establish periodic performance reporting requirements that will effectively monitor investment results and ensure that the investment policy is being followed.
6. Comply with all fiduciary, prudence, due diligence and legal requirements for Trust assets.

OPEB Investment Committee

The OPEB Investment Committee ("Committee") will be responsible for oversight and management of the policies and procedures of the Trust. The Committee will be comprised of the Chief Financial

Officer, Chief of Human Capital Officer, Comptroller and Treasurer of the Authority. The Committee will:

1. Exercise its fiduciary responsibilities in regard to the investment program in accordance with the provisions of the Trust document as well as this Investment Policy Statement.
2. Review the asset allocation policy, asset class guidelines, and current capital market assumptions at least annually to ensure that the current asset mix can reasonably be expected to achieve the long-term goals of the Trust.
3. Review the Trust's updated actuarial valuation and financial projection annually.
4. Evaluate the appropriateness of the policy on an annual basis and, based on such evaluation, either confirm the terms of the policy as then in effect, or amend the Investment Policy Statement.
5. Review the investments of the Trust no less than annually to assess whether policy guidelines continue to be appropriate and confirm that the investment manager is compliant with the investment policy. The Committee shall monitor investment risk, as well as monitor investment returns on an absolute and benchmark relative basis.
6. Appoint investment consultants to review investment performance of the Trust in whole or with respect to specific asset classes, to assist in the development of the investment policies and asset allocation, to monitor and report on investment risks, and to provide independent assessment of investments proposed by the current investment manager.
7. Delegate to the Treasurer general responsibility for implementing the policies established by the Committee. As such, the Treasurer shall prepare semi-annual reports for the Committee on the investment program of the Trust, including achievement of overall performance objectives, compliance with policy guidelines, particularly asset allocation policy.

Investment Authority

Investments will consist primarily of high-grade corporate stocks and bonds with a purpose of producing the necessary long-term yield to fund future payments for employee benefits other than pensions, consistent with Government Accounting Standards Board Statement No. 45. In implementing this policy, to provide expert trustee, custodial and investment management services in connection with the Trust, the following services have been retained:

1. PFM Asset Management LLC ("Investment Manager") to invest the assets of the Trust in accordance with this investment policy; research, recommend and monitor investments for the portfolio on a continuous basis and ensure investments are in compliance with this investment policy; rebalance the portfolio with a method and frequency agreed upon by the Authority to comply with the asset allocation guidelines set forth below or changed by the Authority from time to time; provide quarterly written performance reports that fully comply with CFA Institute (formerly Association of Investment Management and Research, AIMR) performance reporting standards, and other pertinent information pertaining to the investment of the Trust; conduct periodic investment meetings to present the performance of the Trust's portfolio as well as attend special meetings as requested by the Authority; and reconcile portfolio value and holdings with the Trustee. The Investment Manager will also select investment vehicles and assign Designees with discretion to purchase, sell, or hold specific securities that will be used to meet the Trust's investment objectives. The Designees chosen by the Investment Manager must be registered with the Securities and Exchange Commission.
2. Wells Fargo & Company — Institutional Trust Services (the "Trustee") will be the custodian of the Trust.

Statement of Investment Objectives

The investment objectives of the Trust are as follows:

1. To invest assets of the Trust in a manner consistent with the following fiduciary standards: (a) all transactions undertaken must be for the exclusive benefit of eligible retired employees of the Authority and the eligible dependents of such retired employees and (b) assets are to be diversified in order to minimize the impact of large losses in individual investments.
2. To provide for funding and anticipated withdrawals on a continuing basis for payment of OPEB benefits and related expenses, reimbursement of certain Medicare premiums and reasonable expenses of the Trust.
3. To conserve and enhance the value of Trust assets in real terms through asset appreciation and income generation, while maintaining a moderate investment risk profile.
4. To minimize principal fluctuations over the Time Horizon (as defined below).
5. To achieve a long-term level of return commensurate with contemporary economic conditions and equal to or exceeding the investment objective set forth in this Policy under the section labeled "Performance Expectations".

Investment Guidelines

Time Horizon

The Trust's investment objectives are based on a 15-year investment horizon so that interim fluctuations should be viewed with appropriate perspective. The Committee has adopted a long-term investment horizon such that the chances and duration of investment losses are carefully weighed against the long-term potential for appreciation of assets.

Diversification

In general, the Trust will hold up to 3 months of projected liquidity needs for certain administrative and operational expenses in cash. The projected liquidity needs assets will always be held exclusively in cash equivalent investments. The remaining assets will be invested in longer-term securities. Investments shall be diversified with the intent to minimize the risk of investment losses. Consequently, the total portfolio will be constructed and maintained to provide prudent diversification with regard to the concentration of holdings in high-grade corporate stocks and bonds.

Asset Allocation

Based on review and recommendations from the Investment Manager, the Committee believes that to achieve the greatest likelihood of meeting Trust's investment objectives and the best balance between risk and return for optimal diversification, the Trust should allocate assets into two broad classes called Investment Assets and Liquidity Assets. The Investment Assets will be invested in accordance with the targets for each asset class as follows to achieve an average total annual rate of return that is equal to or greater than the Trust's actuarial discount rate as described in the section titled "Performance Expectations". The Liquidity Assets will be held in cash equivalent investments and used to pay for benefits and expenses of the Trust.

Investment Assets

<u>Asset Classes</u>	<u>Asset Weightings</u>	
	<u>Range</u>	<u>Target</u>
Domestic Equity	23% - 43%	33%
International Equity	11% - 31%	21%
REITs	0% - 12%	6 %
Fixed Income	25% - 65%	40%
Inflation Hedged	0 – 10%	

Liquidity Assets

<u>Range</u>
Cash Equivalent
0 – 20%

The Investment Manager shall have discretion to temporarily invest a portion of the assets in cash reserves when deemed appropriate. The Designees will be evaluated against their peers on the performance of the total funds under their direct management.

Rebalancing Philosophy

The asset allocation range established by this Policy represents a long-term perspective. As such, rapid unanticipated market shifts or changes in economic conditions may cause the asset mix to fall outside the Policy ranges. When these divergences occur, the Investment Manager will rebalance the asset mix to its appropriate targets and ranges. Similarly, if the cash requirement to handle liquidity needs falls to a level where near term distributions (over the following three months or less) cannot be met and no contributions are anticipated, the Investment Manager will rebalance the fund to its appropriate targets and ranges.

When the Investment Manager is notified of new contributions by the Trustee, the Investment Manager will review the Trust allocation and fill the liquidity allocation first and the remaining investment allocations last.

Risk Tolerances

Investments will be managed in a style that seeks to minimize principal fluctuations over the established Time Horizon and that is consistent with the Trust's investment objectives.

Performance Expectations

Over the long-term, a rolling five year period, the performance objective for Trust assets will be to achieve an average total annual rate of return of 7.5%, net of expenses, that is equal to or greater than the Trust's actuarial discount rate. Additionally, it is expected that the annual rate of return on Trust assets will be commensurate with the then prevailing investment environment. Measurement of this return expectation will be judged by reviewing returns in the context of industry standard benchmarks, peer universe comparisons for individual Trust investments and blended benchmark comparisons for the Trust in its entirety. The costs to administer and manage the Trust are to be paid from the Trust; therefore, the return will need to be sufficient to cover the expenses and achieve the desired net return.

Selection of Designees

The Investment Manager shall prudently select appropriate Designees to manage the assets of the Trust. Designees must meet the following criteria:

- The Designees must be banks, insurance companies, or investment advisers as defined by the Investment Advisers Act of 1940.
- With respect to Trust assets invested in a mutual fund, the Designees must provide historical quarterly performance data for the mutual fund compliant with Securities Exchange Commission ("SEC") and National Association of Securities Dealers ("NASD") standards.
- The Designees must provide historical quarterly performance data compliant with Global Investment Performance Standards ("GIPS"), calculated on a time-weighted basis, based on a composite of all fully discretionary accounts of similar investment style and reported net of fees.

- The Designees must provide detailed information on history of the firm, key personnel, key clients, fee schedule (including most favored nation clauses), and support personnel. This information can be a copy of a recent Request for Proposal (RFP) completed by the Designee.
- The Designees must clearly articulate the investment strategy that will be followed and document that the strategy has been successfully adhered to over time.
- The Designees for portfolios other than Pooled Vehicles (see Guidelines for Portfolio Holdings) must confirm that it has received, understands and will adhere to this policy and any manager specific policies by signing a consent form provided by the Trustee.
- The Investment Manager shall select Designees employing passive or index strategies unless explicitly authorized by the Committee.

Guidelines for Portfolio Holdings

The Investment Manager shall make every effort to prudently select funds that follow the guidelines listed below.

The use of Pooled Vehicles such as commingled and/or mutual funds are an appropriate approach to minimize investment costs. Pooled Vehicles are regulated by either the Office of the Comptroller of the Currency ("OCC") or the SEC and provide the Trust the ability to appropriately diversify its holdings in a cost effective manner. Inherent within the Pooled Vehicle structure is the limitation on customizing the underlying security selection based on Trust specific economic, social or other screens. The Equity and Fixed Income sections of the Guidelines for Portfolio Holdings listed below are therefore primarily applicable for only separate accounts management and will not explicitly apply until and unless the Trust uses separate account management. The Trust will initially be invested in the investment vehicles and in accordance with the asset allocation contained in Appendix A.

Pooled Vehicles

Every effort shall be made, to the extent practical, prudent and appropriate, to select commingled funds and/or mutual funds that have investment objectives and policies that are consistent with this Policy (as outlined below in Equities and Fixed Income sections). However, given the nature of commingled funds and mutual funds, it is recognized that there may be deviations between this Policy and the objectives of these pooled vehicles especially when market conditions create new opportunities. A commingled fund or mutual fund will not be included in Trust portfolio unless it complies with the general diversification guidelines outlined by the Investment Company Act of 1940.

Cash Equivalents

Cash equivalent reserves shall consist of cash instruments having a quality rating of A-1, P-1 or higher, as established by Moody's or Standard & Poor's. Bankers' acceptances, certificates of deposit and savings accounts must be made of United States banks or financial institutions or United States

branches of foreign banks, which are federally insured with unrestricted capital of at least \$50 million. Short-term corporate obligations must be rated A or better by Moody's or by Standard & Poor's.

Upon attaining asset size where use of a separate account structure is viable and appropriate, the selection of individual Designees will be considered along with Pooled Vehicles for inclusion in the Trust. Separate accounts are governed by contract. When using separate accounts, the Trust may develop addenda to this Policy to constrain the individual Designee using economic, social or other screening techniques.

Equities

Investment in common stocks, preferred stocks and publicly traded Real Estate Investment Trusts ("REITs") shall be restricted to high quality, readily marketable securities of corporations that are actively traded on a major exchange.

Domestic Equities No more than 5% of the Manager's total equity portfolio valued at market may be invested in the equity of any one corporation, ownership of the shares of one company shall not exceed 2% of those outstanding and not more than 25% of equity valued at market may be held in any one industry category as described by the Industry Classification Benchmark universe database. Other than these constraints, there are no quantitative guidelines suggested as to issues, industry or individual security diversification. However, prudent diversification standards should be developed and maintained by the Manager.

International Equities No more than 5% of the total equity portfolio valued at the market may be invested in the common equity of any one corporation, ownership of the shares of one company shall not exceed 2% of those outstanding, and not more than 25% of equity valued at market may be held in any one industry category, as defined by the Industry Classification Benchmark universe database. The overall non-U.S. equity allocation should include a diverse global mix of at least 10 countries. The emerging markets exposure as defined by Morgan Stanley Capital International Inc. should be limited to 35% of the non-U.S. portion of the portfolio.

In order to maintain an effective money management structure that is style neutral, the target growth to value allocation in all market capitalizations is one-to-one. However, in no case will the growth to value allocation for market capitalizations exceed two-to-one. Conversely, value shall not exceed growth by the same ratio.

Fixed Income

Fixed income investments shall be predominantly high quality, marketable securities with a preponderance of the investments in (1) U.S. Treasury, federal agencies and U.S. Government guaranteed obligations, (2) corporate issues including convertibles, and (3) sovereign and corporate debt of foreign corporations.

Fixed income securities of any one issuer shall not exceed 5% of the total bond portfolio, at time of purchase. The 5% limitation does not apply to investment in issues of the U.S. Treasury or other Federal Agencies. The overall rating of the fixed income assets shall be at least "A", according to one of the three rating agencies (Fitch, Moody's or Standard & Poor's). In cases where the yield spread adequately

compensates for additional risk, high yield or emerging market debt securities or other securities that are not core Barclay's U.S. Aggregate eligible can be purchased.

Prohibited Investments

Except for purchase within authorized Investments, securities having the following characteristics are not authorized and shall not be purchased: letter stock and other unregistered securities, commodities or commodity contracts where the Trust is a counterparty, short sales, margin transactions, private placements (with the exception of Rule 144A securities), venture capital funds, private equity, or hedge funds. Further, derivatives, options or futures or any other investment for the sole purpose of direct portfolio leveraging are also prohibited. Direct ownership of real estate, natural resource properties such as oil, gas or timber and the purchase of collectibles is also prohibited. Further, the fund shall not invest in Pooled Vehicles or Separate Accounts where the primary holdings are in emerging international equities, domestic high yield corporate fixed income, international fixed income, or convertible securities.

Safekeeping

The Trustee shall produce statements monthly listing the name and value of all assets held, and the dates and nature of all transactions in accordance with the terms in the Trust Agreement. Assets of the Trust held as liquidity, or investment reserves shall, at all times, be invested in interest-bearing accounts.

Control Procedures

Review of Investment Objectives

The Investment Manager shall review annually with the Committee the appropriateness of the Policy for achieving the Trust's stated objectives. It is not expected that the Policy will change frequently. In particular, short-term changes in the financial markets should not require an adjustment in the investment policy.

Review of Investment Performance

The Investment Manager shall report on a quarterly basis to the Treasurer to review the total Trust investment performance. In addition, the Investment Manager will be responsible for keeping the Treasurer advised of any material change in investment strategy, Designees, and other pertinent information potentially affecting performance of the investments. The Treasurer, in turn will report investment performance periodically, but not less than annually, to the Committee and to the Finance Committee of the Board of Commissioners.

The Investment Manager shall compare the investment results on a quarterly basis to appropriate benchmarks, as well as market index returns in both equity and debt markets. Examples of benchmarks and indexes that will be used include the MSCI US Broad Market Index for U.S. equities,

Total International Composite Index for international equities, MSCI US REIT Index for public real estate, Lehman Aggregate Bond Index for fixed income securities, and the U.S. 91 Day T-bill Index for cash equivalents.

Voting of Proxies

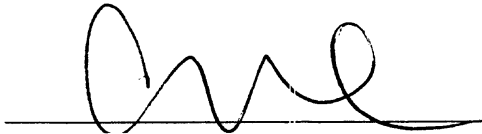
Designees are expected to be aware of corporate provisions that may adversely affect stockholdings, including but not limited to "golden parachutes," "super majorities," "poison pills," "fair price" provisions, staggered boards of directors, and other tactics. Proxies should be vigorously voted with the interest of preserving or enhancing the security's value.

The Designees of a commingled trust or mutual fund that holds the assets of the Trust along with assets of other funds with conflicting proxy voting policies must reconcile the conflicting policies to the extent possible, and, if necessary, to the extent legally permissible, vote the proxies to reflect the policies in proportion to each fund's interest in the pooled fund.

Adoption of Investment Policy Statement

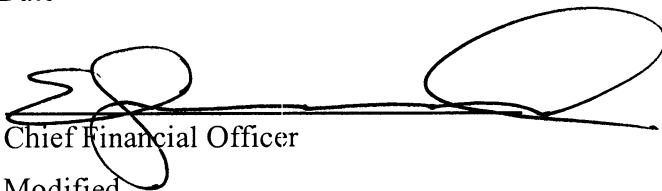
This Investment Policy Statement shall, consistent with the terms of the trust agreement dated as of December 18, 2007, establishing the Trust, and revised as of October 22, 2013, be adopted by the Authority and may be modified from time to time by the Committee. The Investment Policy Statement and any changes and exceptions shall be delivered to the Investment Manager. The Investment Manager is responsible for recommending the appropriate investment vehicles and monitoring actions of designees to ensure that the investments are in compliance with such documents.

Approved by the Port Authority of New York & New Jersey:



Executive Director

6/4/08
Date



Chief Financial Officer

Modified

10-22-13
Date

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

DATE

Lillian D. Valenti
Chief Procurement Officer

**FIRM
ADDRESS
CITY, ST ZIP**

Attention: CONTACT, TITLE

**SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL INVESTMENT
MANAGEMENT SERVICES FOR OTHER POST-EMPLOYMENT
BENEFITS (OPEB) TRUST 2019 THROUGH 2022**

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 investment management services fully described and set forth in Attachment A, which is attached hereto and made a part hereof, during 2019 through 2022. The Authority reserves the right, at its sole discretion, to extend this Agreement term for up to three (3) additional one (1) year periods, upon the same terms, conditions and pricing, unless otherwise agreed to by the Authority. A letter extending the Agreement term shall be sent to the Consultant at least 30 days prior to the end of the term signed by the Treasurer.

This Agreement shall be signed by you and by the Authority's Chief Procurement Officer. As used herein and hereafter, "Treasurer" shall mean the Treasurer of the Authority, or her duly authorized representatives.

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

2. Time is of the essence. Your services shall be performed as expeditiously as possible and at the time or times required by the Treasurer.

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

4. The Consultant shall meet and consult with Authority staff as requested by the Treasurer in connection with any service to be performed herein. All items to be submitted or prepared by the

4 World Trade Center
150 Greenwich Street, 21st Floor
New York, NY 10007

FIRM NAME

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DATE

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

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

[TBD]

6. For continued Investment Management Services of the OPEB Trust in accordance with the approved Authority Investment Policy Statement as of the date of this Agreement, you shall:

- (a) Render an invoice for services during the quarter to the Project Manager within sixty (60) days after the last date of each individual quarter of the year under the Agreement to provide the Authority sufficient time to process payment in a timely manner.
- (b) For active Investment Management Services of the OPEB Trust, beginning on the date such services are commenced, you shall render an invoice for services performed during the preceding month to the Project Manager within fifteen (15) days after the last date of each individual month of the year under the Agreement to provide the Authority sufficient time to process payment in a timely manner. Should the Authority instruct you to revert back to Passive Investment Management of the OPEB Trust, compensation shall be in accordance with paragraph 6(a) above.
- (c) Each invoice shall bear your taxpayer number and the purchase order number(s) as provided by the Authority. Upon receipt of the foregoing, the Project Manager will certify to the Authority that the amount of compensation is correct. The Authority shall, within fifteen days after receipt of such certification by the Project Manager, pay to you by check or electronic payment, the amount certified by the Project Manager.

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

7. The Authority may at any time for cause terminate this Agreement as to any services not yet rendered and may terminate this Agreement in whole or in part without cause upon three (3) days' notice to you. You shall have no right of termination as to any services under this Agreement without just cause. Termination by either party shall be by certified letter addressed to the other at its address hereinbefore set forth. Should this Agreement be terminated in whole or in part by

FIRM NAME

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DATE

either party as above provided, you shall receive no compensation for any services not yet performed; but if termination is without fault on your part, the Authority will pay you as the full compensation to which you shall be entitled in connection with this Agreement the amounts computed as above set forth for services completed to the satisfaction of the Treasurer through the date of termination, minus all prior payments to you.

8. Under no circumstances shall you or your subconsultants communicate in any way with any consultant, 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 Treasurer, 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 Treasurer.

9. Any services performed for the benefit of the Authority at any time by you or on your behalf, even services in addition to those described herein, even if expressly and duly authorized by the Authority, shall be deemed to be rendered under and subject to this Agreement, at no additional cost to the Authority, (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.

10. No certificate, payment (final or otherwise), acceptance of any work nor any other act or omission of the Authority or the Treasurer 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.

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

FIRM NAME

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DATE

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.

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

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

14. You shall promptly and fully inform the Treasurer in writing of any patents or patent disputes, or intellectual property 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.

15. 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 Treasurer. All persons to whom you sublet services, however, shall be deemed to be your agents and no subletting or

approval thereof shall be deemed to release you from your obligations under this Agreement, to impose any obligation on the Authority to such subconsultant or give the subconsultant any rights against the Authority.

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

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

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

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

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

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

The Authority has set a goal of twenty percent (20%) participation for qualified and Authority certified MBEs and ten percent (10%) for qualified and Authority certified WBEs on technical service projects.

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

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

Good faith efforts to include and facilitate participation by MBE/WBEs shall include, but not be limited to the following:

A. Dividing the services and materials to be procured into smaller portions, where feasible.

B. Giving reasonable advance notice of specific contracting, subcontracting and purchasing opportunities to such MBE/WBEs as may be appropriate.

C. Soliciting services and materials from Authority certified MBE/WBE firms. To access the Authority's Directory of MBE/WBE certified firms, go to <http://www.panynj.gov/business-opportunities/sd-mwsdbe-profile.html>.

D. Ensuring that provision is made to provide progress payments to MBE/WBEs in accordance with prompt payment provisions of the Agreement under which services are being provided, if applicable.

E. Observance of reasonable commercial standards of fair dealing in the respective trade or business.

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

The Consultant shall include their MBE/WBE Participation Plans (Form PA 3760D) with their task order proposals, to be reviewed and approved by the Authority's OBDCR.

The Consultant must submit an MBE/WBE Participation Plan for each MBE/WBE subconsultant. Each Participation Plan shall contain, at a minimum, the following:

- Identification of the MBE/WBE: Provide the name and address of the MBE/WBE. If no MBE/WBEs are identified, describe the process for selecting participant firms in order to achieve the good-faith goals under this Agreement.

- Level of Participation: Indicate the dollar value and percentage of MBE/WBE participation expected to be achieved.

- Scope of Work: Describe the specific scope of work the MBE/WBEs will perform.

The MBE/WBE subconsultant listed on each of the MBE/WBE Participation Plans must be certified by the Authority in order for the Consultant to receive credit toward the MBE/WBE goals set forth in this Agreement. Please go to <http://www.panynj.gov/business-opportunities/sd-mwsdbe-profile.html> to search for MBE/WBEs by a particular commodity or service. The Authority makes no representation as to the financial responsibility of these firms or their ability to perform work under this Agreement.

Subsequent to Agreement award, all changes to any of the MBE/WBE Participation Plans must be submitted via a Modified MBE/WBE Participation Plan to the Project Manager for review and approval by OBDCR. For submittal of modifications to the MBE/WBE Plan, Consultants are directed to use Form PA3760D. The Consultant shall not make changes to any of its approved MBE/WBE Participation Plans or substitute MBE/WBE subconsultants or suppliers for those named in their approved plans without the Manager's prior written approval. Unauthorized changes or substitutions, including performing the work designated for a subconsultant with the Consultant's own forces, shall be a violation of this section. Progress toward attainment of MBE/WBE participation goals set forth herein will be monitored throughout the duration of the Agreement.

The Consultant shall also submit to the Project Manager, along with invoices, the Statement of Subcontractor Payments, which may be downloaded at <http://www.panynj.gov/business->

[opportunities/become-vendor.html](https://www.panynj.gov/en/opportunities/become-vendor.html). The Statement must include the name and business address of each MBE/WBE subconsultant and supplier actually involved in the Agreement, a description of the work performed and/or product or service supplied by each such subcontractor/subconsultant or supplier, the date and amount of each expenditure, and such other information that may assist the Project Manager in determining the Consultant's compliance with the foregoing provisions.

MBE/WBE Conditions of Participation

MBE/WBE participation will be counted toward meeting the MBE/WBE agreement goal, subject to all of the following conditions:

1. Commercially Useful Function: An MBE/WBE is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of work on a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved in accordance with normal industry practice. Regardless of whether an arrangement between the Consultant and the MBE/WBE represent standard industry practice, if the arrangement erodes the ownership, control or independence of the MBE/WBE or in any other way does not meet the commercially useful function requirement, that firm shall not be included in determining whether the MBE/WBE goal is met and shall not be included in MBE/WBE reports. If this occurs with respect to a firm identified as an MBE/WBE, the Consultant shall receive no credit toward the MBE/WBE goal and may be required to backfill the participation. An MBE/WBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction or contract through which funds are passed in order to obtain the appearance of MBE/WBE participation. An MBE/WBE may rebut a determination by the Authority that the MBE/WBE is not performing a commercially useful function to the Authority.

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

3. Supervision: All work performed by the MBE/WBE must be controlled and supervised by the MBE/WBE without duplication of supervisory personnel from the Consultant, other subconsultants on the Agreement, or their affiliates. This does not preclude routine communication between the supervisory personnel of the MBE/WBE and other supervisors necessary to coordinate the work.

Counting MBE/WBE Participation

The value of the work performed by an MBE/WBE, with its own equipment, with its own forces, and under its own supervision will be counted toward the goal, provided the utilization is a commercially useful function. An MBE/WBE prime contractor/consultant shall still provide opportunities for participation by other MBE/WBEs. Work performed by MBE/WBEs will be counted as set forth below. If the Authority determines that some or all of the MBE/WBEs work does not constitute a commercially useful function, only the portion of the work considered to be a commercially useful function will be credited toward the goal.

1. Subconsultants: One hundred percent (100%) of the value of the work to be performed by an MBE/WBE subconsultant will be counted toward the MBE/WBE goal. The value of such work includes the cost of materials and supplies purchased by the MBE/WBE, except the cost of supplies or equipment leased from the Consultant, other subconsultants or their affiliates will not be counted. When an MBE/WBE subcontracts part of the work of its contract to another firm, the value of the subconsultant work may be counted toward MBE/WBE goals only if the MBE/WBE subconsultant is itself an MBE/WBE. Work that an MBE/WBE subconsultants to a non-MBE/WBE firm does not count toward MBE/WBE goals.

2. Material Suppliers: Sixty percent (60%) of the expenditure to an MBE/WBE material supplier will be counted toward the MBE/WBE goal. Packagers, brokers, manufacturer's representatives, or other persons who arrange or expedite transactions are not material suppliers within the meaning of this paragraph.

3. Broker's/Manufacturer's Representatives: One hundred percent (100%) of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees for transportation charges for the delivery of materials or supplies provided by an MBE/WBE broker/manufacturer's representative will be counted toward the MBE/WBE goal, provided they are determined by the Authority to be reasonable and not excessive as compared with fees customarily allowed for similar services. The cost of the materials and supplies themselves will not be counted.

4. Services: One hundred percent (100%) of fees or commissions charged by an MBE/WBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of the work will be counted toward the MBE/WBE goal, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.

5. Joint Venture: Joint ventures between MBE/WBEs and non-MBE/WBEs may be counted toward the MBE/WBE goal in proportion to the total dollar value of the Agreement equal to the distinct, clearly defined portion of the work of the contract that the MBE/WBE performs with its own forces. Contact OBDCCR at (201) 395-3117 for more information about requirements for such joint ventures.

17. NON-DISCRIMINATION REQUIREMENTS

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

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

B. Consultant agrees that these "Non-Discrimination Requirements" are a binding part of this Agreement. Without limiting the generality of any other term or provision of this Agreement, in

the event the Authority, or a state or federal agency finds that the Consultant or any of its subconsultants or vendors has not complied with these “Non-Discrimination Requirements”, the Authority may cancel, terminate or suspend this Agreement in accordance with Section 7 of this Agreement.

C. Consultant agrees to cooperate fully with the Authority’s investigation of allegations of discrimination. Cooperation includes, but is not limited to, allowing the Authority to question employees during the investigation of allegations of discrimination, and complying with directives that the Authority or the State or Federal government deem essential to ensure compliance with these “Non-Discrimination Requirements.”

18. NOTIFICATION OF SECURITY REQUIREMENTS

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

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

- Execution of Non-Disclosure and Confidentiality Agreements and Acknowledgments

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

- Consultant/Subconsultant identity checks and background screening

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

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

In accordance with the Authority’s Information Security Handbook, background screening is required when a person has an established need to know or has access to any one of the following types of information or physical locations:

- 1) Confidential Privileged Information
- 2) Confidential Information related to a security project and/or task
- 3) Secure Area of an Authority or PATH facility
- 4) Mission critical system

The Consultant shall perform background checks through the Authority's personnel assurance program provider. The Secure Worker Access Consortium (S.W.A.C.) is the only Authority approved provider to be used to conduct background screening and personal identity verification, except as otherwise required by federal law and/or regulation (such as Security Identification Display Area (SIDA), the federal regulatory requirements for personnel performing work at aviation facilities). Information about S.W.A.C., instructions, corporate enrollment, online applications, and location of processing centers can be found at <http://www.secureworker.com>, or S.W.A.C. may be contacted directly at (877) 522-7922 for more information and the latest pricing. The cost for said background checks for staff that pass and are granted a credential may be reimbursable to the Consultant (and its subconsultants) as an out-of-pocket expense as provided herein. Costs for background checks for staff that are rejected for a credential for any reason are not reimbursable.

- Issuance of Photo Identification Credential

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

Employees may be required to produce not less than two forms of valid/current government issued identification having an official photograph and an original, unlaminated social security card for identity and SSN verification.

Where applicable, for sensitive security construction sites or facilities, successful completion of the application, screening and identity verification for all employees of the Consultant and subconsultant shall be completed prior to being provided a Photo Identification credential by the personnel assurance program provider.

If any questions should arise as to when a Personnel Assurance Program background check is required, the Authority Manager or contract administrator should be contacted for assistance.

- Designated Secure Areas

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

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

- Access control, inspection, and monitoring by security guards

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

- Compliance with the Port Authority Information Security Handbook

This Agreement may require access to Authority information considered Protected Information (“PI”) as defined in the Port Authority Information Security Handbook (“Handbook”), dated October 15, 2008, revised as of April 2, 2018, and as may be further amended. The Handbook and its requirements are hereby incorporated into this Agreement and will govern the possession, distribution and use of PI if at any point during the lifecycle of the project or solicitation it becomes necessary for the Consultant to have access to PI. Protecting sensitive information requires the application of uniform safeguarding measures to prevent unauthorized disclosure and to control any authorized disclosure of this information within the Authority or when released by the Authority to outside entities. The Handbook can be obtained at: <http://www.panynj.gov/business-opportunities/pdf/Corporate-Information-Security-Handbook.pdf>.

- Audits for Compliance with Security Requirements

The Authority may conduct random or scheduled examinations of business practices under this section entitled “NOTIFICATION OF SECURITY REQUIREMENTS” 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.

19. CONFIDENTIAL INFORMATION/NON-PUBLICATION

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

B. Protected Information shall mean and include collectively, as per *The Port Authority of New York & New Jersey Information Security Handbook (dated October 15, 2008, revised as of April 2, 2018, and as may be further amended)*, Confidential Information, Confidential Proprietary Information, Confidential Privileged Information and information that is labeled, marked or otherwise identified by or on behalf of the Authority so as to reasonably connote that such information is confidential, privileged, sensitive or proprietary in nature. Confidential Information shall also include all work product that contains or is derived from any of the foregoing, whether in whole or in part, regardless of whether prepared by the Authority or a third-party or when the Authority receives such information from others and agrees to treat such information as Confidential.

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

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

20. The Consultant assumes the following distinct and several risks to the extent they may arise from the negligent or willful intentional acts or omissions of the Consultant or its subconsultants/subcontractors 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/subcontractors 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/subcontractors or against the Authority, for loss or damage to any property of the Consultant's agents, employees, subcontractors, subconsultants, materialmen or others performing services hereunder;

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

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

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

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

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

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

21. The Port Authority has adopted a Code of Ethics for Port Authority Vendors (the "Code"). The Code is hereby made a part of this Agreement. The Code can be found at <https://www.panynj.gov/business-opportunities/become-vendor.html>.

22. 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 contract for failure to meet standards related to the integrity of the Consultant;
- C. received a less than satisfactory rating on a public or government contract;
- D. had an agreement terminated by any governmental agency for breach of contract or for any cause based in whole or in part on an indictment or conviction;
- E. ever used a name, trade name or abbreviated name, or an Employer Identification Number different from those inserted in the Proposal;
- F. had any business or professional license suspended or revoked or, within the five (5) years prior to proposal opening, had any sanction imposed in excess of fifty thousand dollars (\$50,000) as a result of any judicial or administrative proceeding with respect to any license held or with respect to any violation of a federal, state or local environmental law, rule or regulation;

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G. had any sanction imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, proposal rigging, embezzlement, misrepresentation or anti-trust, regardless of the dollar amount of the sanctions or the date of their imposition; and

H. been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency, including an inspector general of a governmental agency or public authority.

23. 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), nor does this organization have any knowledge of any act on the part of an Authority employee or former Authority employee relating either directly or indirectly to this organization which constitutes a breach of the ethical standards set forth in said Code;

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

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

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

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

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

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

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

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

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

Notwithstanding that the Consultant may be able to make the certifications in this Section and the Section entitled "Certification of No Investigation (Criminal or Civil Anti-trust), Indictment, Conviction, Debarment Suspension, Disqualification and Disclosure of Other Information" at the time the proposal is submitted, the Consultant shall immediately notify the Authority in writing during the period of irrevocability of proposals and the term of the Agreement or any extension of such period, if Consultant is awarded the Agreement, of any change of circumstances which might

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

Under certain circumstances the Consultant may be required as a condition of award of this Agreement to enter into a Monitoring Agreement under which it will be required to take certain specified actions, including compensating an independent Monitor to be selected by the Authority. Said Monitor to 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.

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

Consultants are advised that the Authority has adopted a policy to the effect that in awarding its agreements it will honor any determination by an agency of the State of New York or of the State of New Jersey that a Consultant is not eligible to propose on or be awarded public agreements because the Consultant has been determined to have engaged in illegal or dishonest conduct or to have violated prevailing rate of wage legislation.

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

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

25. CONSULTANT RESPONSIBILITY, SUSPENSION OF WORK AND TERMINATION

During the term of this Agreement, 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 must 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 when 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.

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

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

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

The Consultant shall ensure that no gratuities of any kind or nature whatsoever shall be solicited or accepted by it or by its personnel for any reason whatsoever from the passengers, tenants,

customers or other persons using the Facility and shall so instruct its personnel. The Consultant shall include the provisions of this clause in each subcontract entered into under this Agreement.

27. OBLIGATION TO REPORT

In the event that the Consultant becomes aware of the occurrence of any conduct that is prohibited by the section entitled “No Gifts, Gratuities, Offers of Employment, Etc.”, or if the Consultant knows or should reasonably know that a principal, employee, or agent of the Consultant or of its subconsultants or subcontractors has committed a violation of federal, New York or New Jersey law addressing or governing anti-trust, public contracting, false claims, fraud, extortion, bribery, bid rigging, embezzlement, prevailing wage or minority, woman, small or disadvantaged business enterprises, it shall report such information 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 how to report information to the Office of Inspector General). Failing to report such conduct may be grounds for finding of non-responsibility. The Consultant shall not take any Retaliatory Action against any of its employees for reporting such conduct.

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 subcontract entered into under this Agreement.

28. CONFLICT OF INTEREST

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

29. INTEGRITY MONITOR

In the event that the Authority hires an Integrity Monitor in connection with the work under this Agreement, the Consultant and any subcontractors/subconsultants shall cooperate fully with the Monitor and the Authority, which includes, but is not limited to, providing complete access to all personnel and records in any way related to the work performed pursuant to this Agreement. Any failure to cooperate may result in the termination of this Agreement. The Consultant shall include the provisions of this clause in each subcontract entered into under this Agreement.

30. RIGHT TO AUDIT

Notwithstanding anything to the contrary, the Authority, including its Inspector General, Audit Department and Integrity Monitor, or its designee(s) each shall have the right to audit all of the records of the Consultant with respect to the work and the Agreement, including, without limitation, records pertaining to any compensation paid, payable, or to be paid under the Agreement. The Consultant shall not be entitled to any reimbursement or other compensation for costs associated with such audit, investigation, or certification. The Consultant shall include the provisions of this clause in each subcontract entered into under this Agreement.

The Consultant agrees to pay for the cost of any audit or investigation conducted by the Authority, in which any criminal activity, ethics violations, or professional misconduct by the Consultant or any of its employees, or subcontractors/subconsultants or any of its employees, are discovered. The Consultant shall further agree that should it fail or refuse to pay for any such audit or investigation, the Authority is authorized to deduct from any sum owing the Consultant an amount equal to the cost of such audit and the damages resulting therefrom. The determination of the value of any such costs and decision to withhold any such payments are at the sole discretion of the Authority (including its Inspector General).

31. DEFINITIONS

As used in sections 25 to 28 above, the following terms shall mean:

Affiliate - Two or more firms are affiliates if a parent owns more than fifty percent of the voting stock of each of the firms, or 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, the Port Authority of New York and New Jersey and its wholly owned subsidiaries and others.

Investigation - Any inquiries made by any federal, state or local criminal prosecuting and/or law enforcement 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.

Retaliatory Action - Any adverse action taken by, or at the direction of, the Consultant, against any of its employees for reporting any information as set forth in the clause entitled "Obligation to Report," above.

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 by 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.

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

35. Nothing in this Agreement is intended to constitute the creation of an agency relationship between the Authority and the Consultant or any other right for the Consultant to act as the representative of the Authority for any purpose whatsoever except as may be specifically provided in this Agreement. It is hereby specifically acknowledged and understood that the Consultant, in

FIRM NAME

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DATE

performing its services hereunder, is and shall be at all times an independent contractor and the officers, agents and employees of the Consultant shall not be or be deemed to be agents, servants, or employees or "special employees" of the Authority.

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

Sincerely,

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

Lillian D. Valenti
Chief Procurement Officer

Date _____

The execution of this Agreement by the Consultant's duly authorized representative shall serve as a certification that no alterations have been made to this Agreement, and if any changes or alterations to this Agreement have been made by the Consultant without the Authority's prior written consent, such changes shall be void, non-binding and of no effect.

ACCEPTED:

FIRM NAME

By: _____

Print Name: _____

Title: _____

Date: _____