

August 9, 2019

SUBJECT: REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE PORT AUTHORITY TRANS-HUDSON CORPORATION (PATH) REHABILITATION OF THE HOBOKEN AND NEWPORT STATIONS DURING 2019 THROUGH 2023 (RFP #58432)

Dear Sir or Madam:

The Port Authority of New York and New Jersey (the “Authority”) is seeking Proposals in response to this Request for Proposals (“RFP”) for a Consultant to perform expert professional architectural and engineering services for the Port Authority Trans-Hudson Corporation (PATH) rehabilitation of the Hoboken and Newport stations during 2019 through 2023. The services of the Consultant shall consist of assisting the Authority in the preparation of a Stage II: Design Development Report and Basis of Design, and may also include, at the sole discretion of the Authority, Stage III: Final Design and Contract Documents, and Stage IV: Post Award Construction Services.

The scope of services to be performed is set forth in Attachment A to the Authority’s standard agreement included herewith as Exhibit I (the “Agreement”). 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.

This Agreement is anticipated to be funded in whole or in part by the United States Department of Transportation, Federal Transit Administration (“FTA”) grant funds. As a result, the selected Consultant agrees to comply, and will require its subconsultants to comply, with the applicable FTA requirements, special grant conditions and all other federal, state and local laws that are or may become applicable to this Agreement. The current FTA Requirements are set forth in Exhibit IA.

The Authority estimates that the total value of work required to be performed under this Agreement will be in the range of \$3 million to \$6 million.

All applicable grant requirements and all applicable federal, state and local laws shall be deemed to control in the event of a conflict with the terms of the Agreement.

I. PROPOSER REQUIREMENTS:

The Authority will consider only those firms who are able to demonstrate that they meet the following qualification requirements:

- A. The firm(s) must have provided design and construction support of public and/or institutional buildings of comparable size, scope, complexity and value similar to that contemplated herein, on at least three (3) multi-discipline projects within the past ten (10) years.
- B. The firm(s) must have developed contract documents for at least two (2) contracts of comparable size, scope, complexity and value similar to that contemplated herein.

- C. The proposed Project Manager must be a licensed Professional Engineer or Registered Architect in the State of New Jersey.

Proposers shall complete the appropriate Attachment H-1 Proposer Requirement A, Attachment H-2 Proposer Requirement B, and Attachment H-3 Proposer Requirement C to document each Proposer Requirement above. By furnishing this solicitation document to Proposers, the Authority has not made a determination that the Proposers have met the prerequisites or have otherwise been deemed qualified to perform the services. In addition, a determination that a Proposer has met the prerequisites is no assurance that they will be deemed qualified in connection with other proposal requirements included herein, or that the Proposer will be selected for performance of the subject services. Firms that do not meet these requirements shall not be further considered.

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 Proposer requirements collectively).

II. PROPOSAL FORMAT REQUIREMENTS

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

- A. To be acceptable, the Proposal shall be no more than **50** single-sided pages or **25** double-sided pages, using 12-point or greater font size, not including resumes. The page limit pertains only to Letters F, G, and H in Section III below. Each resume shall be two-page maximum, single-sided or one-page double-sided, using 12 point or greater font size. The Proposal pages shall be numbered and bound, or in a 3-ring binder, with **Your Firm Name**, and **RFP Number 58432** clearly indicated on the cover.
- 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 eight (8) copies, along with nine (9) compact discs (CDs) 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). **DO NOT INCLUDE ANY COST INFORMATION IN YOUR PRINTED PROPOSALS OR ON THE CDS.**
- D. In each submission to the Authority, including any return address label, information on the CD(s) 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 sufficient time so that the Authority receives it **no later than 2:00 p.m., Eastern Time (ET), on September 6, 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 above listed due date for submittals. Proposers using the U.S. Mail are advised to allow sufficient delivery time to ensure timely receipt of their proposals. Presently, UPS is the only delivery vendor with approved recurring delivery times. UPS makes deliveries to 4 WTC around 9:30 a.m. each day. Please plan your submission accordingly. As additional express carriers may be approved by Silverstein Properties and scheduled for recurring delivery times with the VSC, this information may be updated. Under certain circumstances, a solicitation may allow for a commercial vehicle to be approved to make a delivery in accordance with the VSC procedures. If applicable, the specific solicitation document will include that information. The Port Authority assumes no responsibility for delays, including, but not limited to, delays caused by any delivery services, building access procedures, or security requirements.

III. PROPOSAL SUBMISSION REQUIREMENTS:

To respond to this RFP, the Proposer shall 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. Demonstrate your compliance with the prerequisite qualification requirements listed in Section I entitled “Proposer Requirements” by completing the appropriate Attachment H form for each Proposer Requirement above.
- D. Include a statement indicating whether the Consultant is proposing as a single entity, or as a joint venture. If a single entity proposer cannot demonstrate that it meets all of the referenced qualifications, then the single entity proposer may, with others, form a joint venture and request that the joint venture be deemed to be the Proposer (i.e. members of the joint venture may meet the qualification requirement collectively). If 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 the Proposer is a joint venture, the joint venture’s Proposal shall contain an executed teaming agreement, or

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

E. 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. Attach a detailed resume for each key individual that includes their relevant experience and specific areas of expertise. The resumes should include their education, professional credentials and clearly identify the years of experience in the field related to the tasks for which the individual will be responsible.

In addition to any key individuals, list the name(s), title(s) and provide resumes of all personnel (including subconsultants, if any) who will be assigned to perform the required services.

It is desirable that any proposed Professional Engineer(s) or Registered Architect(s) shall have a minimum of five (5) years of experience providing the Architectural, Structural, Electrical, Electronics, Geotechnical, and Plumbing and Fire Protection design and construction support services in their respective disciplines and shall have performed and completed at least three (3) projects of comparable in size, type, and complexity in their respective disciplines.

It is desirable that the Project Asbestos Designer performing asbestos and other hazardous building and utility materials abatement design services must have a minimum of ten (10) years of design experience on projects of similar scope and complexity involving asbestos and lead abatement. The Project Asbestos Designer and the Inspector performing surveys shall possess United States Environmental Protection Agency (EPA) Asbestos Project Designer Accreditation and EPA Building Inspector Accreditation, respectively.

It is desirable that the Lead Engineer(s)/Architect(s) for each discipline shall have design experience of a construction or rehabilitation project in an active underground commuter railroad station.

F. Firm Qualifications and Experience

In a concise and narrative form, demonstrate your firm's specific relevant experience in the performance of services similar to those contemplated in Attachment A. For all projects referenced, the services must have been performed by the Proposer within the last ten (10) years, or are currently being performed. The information outlining the services performed or currently being performed shall include, but not be limited to, the following:

1. Description of services provided by proposer;
2. Start and end dates of services performed;
3. Contract value (including the total value of services performed by you);

4. Project manager for project;
5. Key personnel involved in project;
6. Subcontractors and other entities assisting with project;
7. Indicate whether said projects were completed on schedule and within budget. Provide an explanation, if applicable, for why a project was not completed on schedule and/or within budget;
8. Hiring entity and contact person (name, title, phone number, email address);
9. The annual staff hours of full and part time labor expended in the performance of the contract;
10. A summary of the types of work performed; and
11. A representative familiar with the work that the Port Authority may contact.

It is desirable that the consultant or subconsultant performing environmental design services shall have a minimum of ten (10) years of experience on projects of similar scope and complexity and shall have prepared application packages for environmental permits and obtained environmental permits and approvals for similar work.

(DO NOT PROVIDE ANY COST INFORMATION)

G. Technical Approach

A detailed description of the proposed technical approach to be taken for performance of the required services for each task in Attachment A, and a schedule for completion of said tasks, including milestones associated with each task. The schedule shall be developed based on the overall Scope of Work noted in Attachment A. Factors to be addressed in your technical approach shall include, but are not limited to, your proposed methodology and strategy for performing the services in Attachment A, as well as any specific software or other technology you may employ in the performance of these services.

As part of your technical approach, prepare a staffing analysis for performance of each task in Attachment A, using the Excel spreadsheet in the following link: [Attachment E \(Staffing Analysis Sheet\)](#). Include names and titles of the individuals proposed to perform each of the tasks identified as well as the number of hours required to complete each task.

(DO NOT PROVIDE ANY COST INFORMATION)

H. Management Approach

Provide a detailed description of the proposed management approach to be taken for performance of the required services for each task in Attachment A. Factors to be addressed in your management approach shall include, but are not limited to: your proposed organizational structure for delivery of the contemplated services; your proposed approach for keeping the Authority apprised of the project status; and your proposed approach to ensuring the quality and timeliness of the work product to be produced. Include a proposed organizational chart for this project, with the names and office locations of all employees assigned to the project.

The proposed team should include a Project Manager, and additional management staff as necessary to perform the scope of work as described in Attachment A. Indicate how you

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

I. Pricing and Compensation Proposal

In a **separate sealed envelope** labeled “Pricing and Compensation Proposal,” complete Attachment F, which is accessible in Excel format via the following link: [Attachment F – Pricing and Compensation Proposal](#). After review of all proposals received, the Authority will review the Pricing and Compensation Proposal from the firm whose technical proposal is rated highest. The Pricing and Compensation Proposal shall include:

1. The Consultant’s Fixed Fee, in accordance with Section 9.A of the attached Port Authority Standard Agreement (Exhibit I).
2. Direct Personnel Costs, in accordance with Section 9.B of Exhibit I. For each billing rate, set forth a breakdown showing salaries and fringe benefits, overhead, profit, and any other component (e.g., vacation, holiday, sick pay, worker's compensation, office rent, insurance, etc.).
3. Overhead Rate, in accordance with Section 9.C of Exhibit I. Proposer must provide their most recent certified audited overhead statement and approval/acceptance of the firm’s proposed overhead rate by a cognizant agency.
4. Cost of Subconsultants, in accordance with Section 9.D of Exhibit I. An hourly rate schedule itemized by name, job title, experience and estimated hours to perform the defined scope for each job title.
5. An itemized list of all Reimbursable Expenses, in accordance with Section 9.E of Exhibit I.

J. Disadvantaged Business Enterprise (DBE) Program

This solicitation is subject to the United States Department of Transportation regulations on Disadvantaged Business Enterprises (DBEs) contained in Part 26 of Title 49 of the Code of Federal Regulations. Your attention is directed to Paragraph 24 of the Agreement in which the Authority has stated the goals for DBE participation in this project. The requirements for the DBE Program are located in Attachment G of this solicitation.

Proposers are required to submit the following DBE forms included in Attachment G with their Proposal.

1. APPENDIX A1: Professional, Technical and Advisory Services DBE Goals Statement
2. APPENDIX A2: Professional, Technical and Advisory Services DBE Participation Plan and Affirmation Statement

Provide your DBE Participation Plan by completing Appendix A2 of Attachment G, which shall contain the following:

- a. Identification of DBEs: Provide the names and addresses of all DBEs included in the Plan. If none are identified, describe the process for selecting participant firms in order to achieve the good-faith goals under the Agreement.
 - b. Level of Participation: Indicate the percentage of DBE participation expected to be achieved with the arrangement described in the Plan.
 - c. Description of the specific scope of work the DBE(s) will perform.
3. Include the following DBE Appendices:
- a. Appendix A1: DBE Goals Statement in accordance with Part III clause entitled “Disadvantaged Business Enterprise (DBE) Program”
 - b. Appendix A2: DBE Participation Plan and Affirmation Statement
 - c. Appendix A4: Information on Solicited Firms
- *Note: APPENDIX A3: Modified DBE Participation Plan and Affirmation Statement, is neither included with these proposal documents nor required at the time of proposal submission.

(DO NOT PROVIDE ANY COST INFORMATION ON THE APPENDICES.)

K. FTA Submission Requirements

- 1. **CERTIFICATION REGARDING LOBBYING PURSUANT TO 31 U.S.C. 1352**
- 2. **STANDARD FORM LLL - DISCLOSURE OF LOBBYING ACTIVITIES -**
Complete this form, to disclose lobbying activities pursuant to 31 U.S.C. 1352. **If the Proposer has lobbying activity to disclose, this certification must be submitted with the Proposals.**
- 3. **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS**

L. Provide a complete list of your firm’s affiliates.

- M. 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 the Authority’s 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 36 of the attached Standard Agreement. Proposers are further advised that under this Agreement, firms must provide, upon receipt

of a Task Order issued by the Authority, written notice to the Authority of any existing or potential conflict of interest the firm(s) may have in the performance of services under this Agreement.

- N. The selected Consultant(s) shall comply with the requirements of the Agreement and its terms and conditions. You should therefore not make any changes in this Agreement, nor restate any of its provisions in your Proposal or supporting material.

O. Financial Information

The Proposer will be required to demonstrate that it is financially capable of performing the services for the Agreement resulting from this RFP. The determination of the Proposer's financial qualifications and ability to perform these services will be at the sole discretion of the Authority. The Proposer shall submit, with its Proposal, the following:

- (1) Certified financial statements, including applicable notes, reflecting the Proposer's assets, liabilities, net worth, revenues, expenses, profit or loss and cash flow for the most recent calendar year or the Proposer's most recent fiscal year.
- (2) Where the certified financial statements in (1) above are not available, then reviewed statements from an independent Certified Public Accountant setting forth the aforementioned information shall be provided.

Where the statements submitted pursuant to the aforementioned subparagraphs (1) and (2) do not cover a period which includes a date not more than forty-five (45) days prior to the Proposal Due Date, then the Proposer shall also submit a statement in writing, signed by an executive officer or his/her designee, that the present financial condition of the Proposer is at least as good as that shown on the statements submitted.

A statement of work which the Proposer has on hand, including any work on which a bid and/or Proposal has been submitted, containing a description of the work, the annual dollar value, the location by City and State, the current percentage of completion, the expected date for completion, and the name of an individual most familiar with the Proposer's work on these jobs.

The Proposer's Federal Employer Identification Number (i.e., the number assigned to firms by the Federal Government for tax purposes), the Proposer's Dun and Bradstreet number, if any, the name of any credit service to which the Proposer furnished information and the number, if any, assigned by such service to the Proposer's account.

P. Performance Evaluations

Your attention is directed to Paragraph 40 of the Agreement in which the Authority states its past performance policy for consultants and subconsultants. In the event that the Proposer's performance on a past Authority or Port Authority Trans-Hudson (PATH) contract or contracts has been rated less than satisfactory (e.g., received a Performance Evaluation rating of Marginal or Unsatisfactory) within three years prior to submission of its Proposal, the Chief Engineer, or his designee, may request the Proposer furnish information demonstrating to the satisfaction of the Chief Engineer, or his designee, that, notwithstanding such rating, the root cause of the adverse performance has been identified and definitively corrected or the circumstances giving rise to the rating have changed and will not reoccur.

If the foregoing is requested and is not furnished within seven days thereafter or within such additional time as the Chief Engineer, in his sole discretion, may allow, the Authority may not be in a position to determine whether the Proposer is qualified, whether the Proposer understands the requirements of the agreement or whether the Proposal is responsive and the Authority may, in its sole discretion, reject the Proposal.

In the event that the Chief Engineer or his designee finds, in his or her sole discretion, that the Proposer has not satisfactorily demonstrated that the circumstances surrounding a Marginal or Unsatisfactory Performance Evaluation rating have been successfully mitigated, the Authority may determine that award to the Proposer is not in the best interest of the Authority and may, in its sole discretion, remove the Proposer from consideration for award. In making such a determination, the Chief Engineer or his designee may initiate a hearing at which time the Consultant will have to demonstrate to a committee of Port Authority staff that the circumstances leading to the Marginal or Unsatisfactory Performance Evaluation rating have been mitigated and that the factors that led to the rating are no longer applicable. The determination of the Chief Engineer or his designee will be conclusive.

The giving of such notice to the Proposer in connection with the foregoing information shall not be construed as an acceptance of its Proposal. However, the Authority reserves the right in its sole and absolute discretion, to accept the Proposal despite the fact that said Proposer has not submitted any information required pursuant to this Section within the above-stated time period.

IV. NOTIFICATION OF SECURITY REQUIREMENTS FOR AVAILABLE DOCUMENTS:

The Authority will provide the documents listed in Section X, Item B (With the exception of B6) of Attachment A to Proposers interested in responding to this RFP upon request. In order to receive this information, Proposers must submit the following:

- A. A Letter of Intent to propose on this RFP, signed by a principal of the firm on firm letterhead.
- B. A completed Attachment C, Company Profile. PLEASE NOTE: The available document will be emailed in encrypted, password protected file only to the contact provided by the firm pursuant to #10 on Attachment C.
- C. A notarized affirmation signed by a principal of the firm that contains the following certification:
 - 1. The information provided will be kept in confidence;
 - 2. The information provided will be used only for the purpose of addressing the requirements of the RFP and for obtaining pricing information required to submit a proposal; and
 - 3. The information provided will be destroyed in the event of notification that the firm was not awarded a contract for the work to be performed under this Agreement.

Please send a PDF attachment of the above requested information to Thomas Barlotta at TBarlotta@panynj.gov and mail a hard copy with original signatures to the following address:

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

The Authority must receive your E-mailed PDF requests no later than 4:00 P.M. Eastern Time, seven (7) working days before the RFP due date. The Available Submission of any information requested in this Section entitled “NOTIFICATION OF SECURITY REQUIREMENTS FOR AVAILABLE DOCUMENTS” is separate and apart from that also requested elsewhere in this RFP document. If the information is also required under any section of the RFP, including, but not limited to, Proposal Submittal Requirements and Proposer Prerequisites, the information must also be submitted with the firm’s proposal. Submission of such information in response to this Section will not constitute submission of the information for purposes of the RFP.

The Authority shall not be held responsible for the failure of a proposer firm, or individual, to meet each required component of the screening process in a timely manner. It is the sole responsibility of each prospective proposer to follow-up and complete the Screening Process. Only bona fide Proposers who have completed the screening process will be provided with access to the documents.

Submission of any information requested in accordance with this Section IV is separate and apart from that also requested elsewhere in this RFP. If the information is also required under any section of the RFP, including, but not limited to, Proposer Requirements, the information must also be submitted with the firm’s proposal. Submission of such information in response to this Section will not constitute submission of the information for purposes of the RFP.

V. BACKGROUND QUALIFICATIONS QUESTIONNAIRE (BQQ)

The Proposer shall submit a completed BQQ no later than two (2) weeks before the RFP due date, as required for all consultants, subconsultants, contractors and vendors providing services under federal grant programs. This document and instructions for submitting the completed BQQ to the Authority’s Office of Inspector General can be obtained at the Authority’s website through the following link: <http://www.panynj.gov/inspector-general/inspector-general-programs.html>

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

VI. SELECTION PROCESS:

The Consultant will be selected through a qualifications-based selection (“QBS”) method in accordance with the Brooks Act. The review, rating and ranking of proposals will be based upon the technical selection criteria as indicated below, which are listed in order of importance. If a cost agreement with the highest qualified firm cannot be reached, the Authority may elect

to commence negotiations with the next highest qualified firm, and so on, until an agreement is reached.

The Authority's technical criteria are as follows:

- A. Qualifications and experience of the proposed staff, including subconsultants, performing services hereunder;
- B. Qualifications and experience of the firm, including the quality of similar services provided to others, and the demonstrated ability to complete the services in accordance with the project schedule;
- C. Technical approach to performance of the contemplated services; and
- D. Management approach to the performance of the contemplated services.

VII. 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 60 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 Project Engineer or Registered Architect, who may be supported by no more than six (6) other senior staff members proposed to work on this project. Notification of presentation scheduling will be made by email. 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.

VIII. 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 firm shall be deemed to have made the certifications contained therein unless said firm submits a statement with its Proposal explaining why any such certification(s) cannot be made. Such a submission shall be submitted in a separate envelope along with your Proposal, clearly marked "CERTIFICATION STATEMENT."

It is Authority policy that its contractors and vendors comply with the legal requirements of the States of New York and New Jersey. Your attention is therefore called to New York State's requirements that certain 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 advised that additional vendor information, including, but not limited to forms, documents and other related information, may be found on the Authority website at: <http://www.panynj.gov/business-opportunities/become-vendor.html>.

After a review of all Proposals received, the Authority will forward two (2) copies of the Agreement and Attachment A thereto to the selected firm(s), which shall sign and return both copies. Signature shall be by a corporate officer. The return of one copy executed by the Authority will effectuate the Agreement.

Should you have any questions, please contact Thomas Barlotta, Solicitation Manager, by email at TBarlotta@panynj.gov. All such correspondence must have your name, title, company, mailing address, telephone number and state "RFP #58432" in the subject line. The Authority must receive all questions no later than 2:00 P.M., seven (7) calendar days before the RFP due date. Neither Mr. Barlotta nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or to give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned, and such writing shall form a part of this RFP, or the accompanying documents, as appropriate. Addenda to the RFP, if any, will be posted at <http://www.panynj.gov/business-opportunities/bid-proposal-advertisements.html?tabnum=6>. 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, and the Authority shall have no obligation to a firm except under a duly authorized agreement executed by the Authority.

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

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

Sincerely,

Joann Spirito
Manager, Federal Procurement & Compliance
Procurement Department

Attachments

Attachment A: Scope of Services
Attachment A1: Authority's Limited English Proficiency (LEP) Plan 2015
Attachment B: Agreement on Terms of Discussion

Attachment C: Company Profile
Attachment D: Insurance Requirements
Attachment E: Staffing Analysis Sheet
Attachment F: Pricing and Compensation Sheet
Attachment G: Disadvantaged Business Enterprise (DBE) Program and
Appendices A1, A2 and A4
Attachment H: Proposer Requirements

Exhibit I: Port Authority Standard Agreement
Exhibit IA: Federal Transit Administration (FTA) Contract Provisions
Appendix 1: Certification Regarding Lobbying Pursuant to 31 U.S.C. 1352
Appendix 2: Standard Form LLL, Disclosure of Lobbying Activities
Appendix 3: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary
Exclusion – Lower Tier Covered Transactions

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE PORT AUTHORITY TRANS-HUDSON CORPORATION (PATH) REHABILITATION OF HOBOKEN AND NEWPORT STATIONS DURING 2019 THROUGH 2023

I. BACKGROUND

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

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

Areas of the PATH Transit System flooded by Superstorm Sandy surge waters included: Tunnels E and F between Exchange Place and WTC Stations; Tunnels E, F, C, and D at Caisson3; Tunnels A and B, and Tunnel F at Caisson 2. The water incursion also occurred at the Hoboken, Newport, Exchange Place, and Grove Street Stations, as well as other PATH properties.

During the Stage I field inspections, the reports found that the Hoboken and Newport stations have more severe water leakage issues and damaged station elements than the other two stations. Several areas were not accessible for visual investigation in the Hoboken and Newport stations. In order to further identify and quantify damaged components in the stations caused by Superstorm Sandy, conducting more in-depth investigations and hands-on testing is needed to provide a more accurate construction cost estimate.

In addition, analyzing the existing station structure at these two stations, investigating leakage causes, and developing measures to ensure a watertight envelope both outside and inside of the station structure will help eliminate paths of water infiltration through the station structure and keep PATH stations serviceable for the foreseeable future.

Services to be performed by the selected Consultant may be funded in whole or in part by the United States Department of Transportation, Federal Transit Administration (FTA).

II. INTRODUCTION

The services of the Consultant shall consist of the preparation of a Stage II Design Report and Basis of Design, Stage III Final Design and Contract Documents, and Stage IV Post Award Construction Services for engineering and architectural services for the PATH Rehabilitation of the Hoboken and Newport Stations.

The objective is to rehabilitate current and prevent future potential damages resulting from Superstorm Sandy at Hoboken and Newport stations. The work includes rehabilitation of architectural finishes, structural, mechanical, plumbing, fire protection, drainage system, electronics, and electrical elements, and other infrastructure at platforms and mezzanine levels necessary to maintain the integrity and useful life of the facility.

The task order services shall include:

- Stage II Design Development Report and Basis of Design,
- Stage III Final Design and Contract Documents – OPTIONAL TASK,
- Stage IV Post Award Construction Services - OPTIONAL TASK.

Optional tasks shall not be performed without express written consent by the Authority.

III. ASSUMPTIONS

- A. An Authority Engineering Department representative shall act as the Lead Engineer/Architect (LE/A) as defined by the Authority's Engineering Department's Project Delivery Manual (See Section X), provided by the Authority, to coordinate internal Authority processes and procedures.
- B. Standard Authority security procedures will be followed by all Consultants for access to the site and to safeguard all design documents during Stage III and Stage IV work.
- C. Submissions shall be made at milestones listed on the project schedule in Section VIII;
- D. Authority Sustainable Design best practices shall be followed.
- E. All submissions requested during Stage II and Stage III shall be posted to an Authority project website (LiveLink). A brief orientation will be provided by the Authority at the Stage II and Stage III kick-off meetings.
- F. Field and survey data gathering will be performed during day and evening hours and scheduled with the facility by the project manager. The Consultant shall prepare all maintenance of traffic (MOT) drawings needed for field inspections. The Consultant shall acquire roadway/ lane closure permits as needed for inspection activities, and inform and coordinate with the Authority and other jurisdictional agencies for all access and lane closures required for the inspection. The Consultant shall provide MOT in accordance with the approved MOT drawings, including traffic control devices (e.g. attenuator vehicles, arrow boards, cones, drums, etc.,) and associated labor services, as required. All MOT principles shall conform to the current Federal Manual on Uniform Traffic Control Devices (MUTCD) and jurisdictional agency requirements.
- G. Hours of construction work shall be confirmed with the facility. All design work shall be carried out such that the construction staging developed shall keep the PATH Hoboken, and Newport Stations operational at all times with minimal disruption to their operations. Design shall be coordinated with on-going and planned construction for the stations.
- H. The Stage IV submittal process shall be electronic via the Authority's project website. An orientation will be provided at the Stage IV pre-construction meeting.

IV. SCOPE OF SERVICES

The services for the Consultant shall include, but not be limited to, the preparation of a Stage II Design Report for Rehabilitation of Hoboken and Newport Stations, and may also include Stage III Final Design and Contract Documents, and Stage IV Post Award Construction Services for Rehabilitation of Hoboken and Newport Stations.

The Consultant's design shall comply with all latest applicable codes and standards that would be in place as if the Authority were a private corporation. These codes include, but are not limited to, New Jersey Uniform Construction Code (NJUCC) and its subcode, International Building Code (IBC), National Standard Plumbing Code (NSPC), Occupational Safety and Health Administration (OSHA), Americans with Disabilities Act Guidelines (ADAAG), National Electrical Code (NEC), New Jersey Department of Environmental Protection (NJDEP) regulations, National Fire Protection Association (NFPA), all applicable federal, state, and local requirements, and Authority standards and guidelines.

The Consultant shall be responsible for engineering/architecture services of all involved disciplines including, but not limited to, architectural, structural, electrical, traffic, plumbing, fire protection, civil, environmental, mechanical, electronics, geotechnical, and estimating.

The Consultant shall coordinate its work with Authority in-house staff responsible for auditing the Consultant's respective portion of the Stage II Design Report and, if applicable, Stage III Contract documents.

The Consultant shall prepare two separate Stage II Design Reports and, if applicable, two separate Stage III Contract documents, one report and one contract document for each station.

Consultant services and development of scope of work for Stage II Design Report shall include, but not be limited to:

- A. Performing geotechnical/waterproofing investigations and design services in order to identify and determine the conditions of damaged structures caused by Superstorm Sandy and provide recommendations to mitigate water infiltration and to achieve a watertight envelope both inside and outside of the station structure at both stations.
 1. Review available existing/as-built drawings, underground utility drawings, reports and documents, histories, and reports of past repairs provided by the Authority including the Newport Station Internal Leakage Repair Scoping Report. Based on these documents, summarize construction histories and methods employed for each station since their original construction in the early 1900s.
 2. Perform site visits, condition survey's and visual inspections, and field testing at the stations to identify and locate water leaks and damages throughout the structures.
 3. Document all water leaks in the two stations including descriptive narratives, location plans, and photographs.
 4. Identify existing construction joints and interfaces between different construction elements that were built over the past 100-plus years that may be acting as channels

for water ingress into the stations based on information derived from IV.A.1.-3., above.

5. Analyze and determine plausible causes of leaks and provide drawings and diagrams describing the analyses.
 6. Evaluate the feasibility and constructability of both external (positive side) and internal (negative side) mitigation measures and provide recommended measures for permanent waterproofing to prevent water infiltration to enter station platforms, underground public areas, and underground utility rooms and chambers. Include recommendation on waterproofing technologies and methods, and available materials, detailed description of the procedures involved, and conceptual design including required modification for all associated structural and architectural components and utilities.
 7. Perform infrared thermography or other similar non-destructive electronic/ultrasonic scanning as approved by the Authority to detect and map hidden cracks and water ingress paths in both stations prior to final design.
 8. Provide a construction cost estimate and developing a construction schedule and staging for permanent leak mitigation work for the overall project schedule.
 9. Provide design criteria as required.
 10. Provide a list of applicable geotechnical regulations.
 11. Present findings to PATH Operations and Authority Engineering staff at the 50% Stage II Report Submission.
 12. Present findings to PATH and Authority Executive staff after the 100% Stage II Report Submission.
- B. Performing structural evaluation and design services in order to identify and rehabilitate all damaged structural components caused by Superstorm Sandy at both stations.
1. Conduct all necessary structural probing and material testing utilizing the latest available technology/methodology including non-destructive methods to investigate, determine and quantify the full extent of structural deficiency and damage of all structural components within the two station structures including, but not limited to, the areas identified in the Stage I report. Prepare proposed testing plans for the Authority to review.
 2. Document and evaluate all test results and findings. Provide recommendations and develop conceptual designs to rehabilitate/repair/replace all damaged structural components.
 3. Perform condition surveys and evaluation of all damaged/deteriorated structural supports of architectural, mechanical, electrical and plumbing components. Provide recommendations and develop conceptual designs to repair/replace those components.
- C. Inspecting and evaluating the following locations/items. Identify the damaged components, document findings, and provide recommendations to repair and/or replace damaged components. Identify and trace back to source all piping, cables and conduits

for removal and repair. Document in schedules to reflect findings in all areas listed below.

1. Newport Station

- a. Ejector pump and associated piping, wiring, conduits, controls, ejector pit structure, and ejector pit cover and gaskets in the Ejector Room on the Upper Mezzanine Level.
- b. Manhole on the street level above the Ejector Room including manhole frame and cover. Identify connections and modifications to make the system surface and subsurface watertight.
- c. Electrical Room under escalators on the upper mezzanine level
 - 1) Metering cabinet with the Public Service Enterprise Group (PSE&G) lock;
 - 2) 480V PSE&G disconnect switch for headhouse feed; and
 - 3) Panel DP-1 through and Transformer TEPP-2.
- d. Electrical Room at the end of North Passageway
 - 1) 15KV Feed, 480V Feed and ATS Feed conduits entering the room from main electrical room; and
 - 2) Conduits running behind cavity wall along North Passageway.
- e. Employee Room in back of house lower mezzanine
 - 1) Pull Box and associated conduits and cables.
- f. Under floor duct (walker duct) connecting to turnstiles.

2. Hoboken Station

- a. North Electrical Room next to Platform Elevator
 - 1) Update the equipment and panel layout in Stage I Report drawings;
 - 2) Coordinate with waterproofing approaches to evaluate rearrangement of existing panel boards and equipment; and
 - 3) Evaluation of lifting floor mounted transformer 18 inches minimum above floor finish.
 - b. Electrical Closet on the platform level facing Track 2
 - 1) Elevated floors;
 - 2) Conduits and cables under the elevated floor; and
 - 3) Evaluation of lifting floor mounted transformer 18 inches minimum above floor finish.
 - c. Under floor duct (walker duct) connecting to turnstiles
- D. Inspecting, evaluating, and providing recommendations for replacement/repair of architectural finishes in the following locations in coordination with overall station appearance of materials, colors, sizes, and tile patterns.

1. Newport Station
 - a. Revolving doors, swing doors, storefront system and adjacent ceiling panels, and floor tiles at the North and East sides of the station headhouse entrance. Coordinate work with that being conducted under contract PAT-784.169 (see below, Section X. B. Engineering Available Documents No. 11) for work limit.
 2. Hoboken Station
 - a. Platform railing between turnstile and North Electrical Room at Track 3.
 3. All Stations
 - a. Repair /patch work resulting from all destructive testing listed above.
- E. At the Newport and Hoboken stations, Authority Materials Engineering staff will perform the following tests to assist the structural and/or waterproofing testing and investigation. Coordinate with Authority Materials Engineering staff and present to the Authority for the proposed testing approach/methodology after the Stage II kick-off meeting.
1. Concrete delamination / spall location survey - ASTM D4580
 2. Concrete chloride testing - AASHTO T-260
 3. Corrosion potential of reinforcing steel (Half-Cell) – ASTM C876
 4. Concrete core sampling for in-situ strength, etc. – ASTM C 42, C 39, C 1077
 5. Direct tension testing on anchors, dowels, etc. – ASTM E 488
- F. Hoboken Station Stair Number 3
1. Review PATH Hoboken Station Flood Resiliency – Exterior Stairs #1, 3, 4, 5, 9, 10 Stage I Report (see Section X. B. Engineering Available Documents No. 3) and re-validate the conceptual design requirements and arrangements with conformance to ADAAG guidelines, structural design and criteria, flood resiliency measures, and other infrastructures necessary to maintain the integrity and permanency of structural design. The street stair bulkhead initial concept established the basis of structural configuration, flood closure application and façade fenestration that will be subject to a re-validated review of the stair design development in the Stage II Design Phase.
 2. Develop preliminary design arrangement and details for Stair Number 3 reconstruction and include, but not limited to, plans, elevations, cross sections, perspective views of bulkhead, and primary details. Design will require architectural, structural, plumbing and fire protection, and electrical modifications of the existing stair structure including, but not limited to, adjacent New Jersey Transit properties and surrounding site conditions.
 3. Develop preliminary design for site access in compliance with ADA accessibility requirements for public usage for station entry and exit.
 4. Provide a construction cost estimate and construction staging schedule for stair reconstruction work as part of the overall project schedule.
 5. Identify all traffic, New Jersey Transit rail and bus, and PATH rail operations and construction issues associated with the stair reconstruction work.

- G. Replacing existing doors, frames, and jambs with flood proof doors, reinforced frames and jambs, and sealed conduit penetrations for protecting critical spaces such as electrical, communication and signal relay rooms. Refer to the “Replacement of flood proof doors locations drawings, 2018” in Section X.
- H. Updating the overall project’s constructability analysis and construction staging and phasing plans, where applicable in the Stage I Report, to minimize interference with PATH operations and passenger access during construction in coordination with remediation repairs and/or replacement of latent damaged stations’ components. For the Newport Station, identify and trace back to the source all ceiling mounted piping, cables and conduits at the Platform, Upper Mezzanine, Lower Mezzanine and Passageways. Document in schedule(s) to reflect the finding. Present to the Authority for approval for the methodology/approach of temporarily relocating/hanging the ceiling mounted piping, cables and conduits during the ceiling acoustical treatment replacement construction phase.
- I. Updating the Stage I Report construction cost estimate of the stations’ rehabilitation measures where applicable for Authority review.
- J. Researching and determining the requirement of entry permits for Newport Station’s replacement of headhouse doors, floor tiles, and storefront system.
- K. Performing environmental testing to identify hazardous materials impacted from proposed construction areas. The hazardous materials shall include, but not be limited to, asbestos, lead-containing paint, universal waste, polychlorinated biphenyl (PCB) containing materials and other hazardous building system materials. Prepare and provide design documents to remove all the hazardous materials found in the testing.
- L. Participating in Stage II Risk Management for the project:
 - 1. Attend a minimum of two (2) sessions of Risk Management workshops at 50% and 100% Design Development completion levels,
 - 2. Review the Risk Management report and provide comments.
- M. Preparing support documentation of the proposed repair/replacement measures for New Jersey Historic Preservation Office (NJHPO) review, where applicable. The rehabilitation shall meet the standards in accordance with NJHPO guidelines. The support documentation shall include, but not be limited to, presentation, report, rendering images, and construction documents.
- N. Advancing Stage I Report recommendations to design development documents with 30% level completion of Final Design and Contract Document. This shall include, but not be limited to:
 - 1. Finalized Design Criteria,
 - 2. Update Basis of Design,
 - 3. Evaluation and verification of the conditions and capacities of the existing structural elements and foundation within the work areas,
 - 4. Design development drawings for all disciplines
 - a. Plans, elevations, sections, and details for removal, strengthening, modification, replacement, and repair of existing station elements.

- b. Rendering – three (3) perspective interior views at each station as directed by the Authority,
- c. Material board for architectural finishes,
- d. Structural and lighting level calculations,
- e. Plumbing plans shall include but not be limited to:
 - 1) Floor Plans,
 - 2) Riser diagrams, and
 - 3) Ejector pump selection and detail.
- f. Electrical plans shall include but not be limited to:
 - 1) Equipment layout for removal and installation plan of electrical equipment, cables and conduits as listed in the scope of work.
 - 2) Cable conduit schedule for removal and installation.
 - 3) One Line Diagram.
 - 4) Collect data and prepare panel schedule.
 - 5) Construction estimate update.
- g. Evaluation of MOT requirement for vehicles and pedestrians including detours.

V. DESCRIPTION OF THE CONSULTANT'S TASKS FOR STAGE II – DESIGN DEVELOPMENT (BASE WORK)

TASK A - REVIEW REFERENCE AND AVAILABLE DOCUMENTS

Review all available drawings, reports, and past repair histories listed in Section X below.

TASK B - MEETINGS

Meetings shall take place at the Authority's Engineering and Architectural Design offices located at 4 World Trade Center, New York, NY, the Journal Square Transportation Center (JSTC), Jersey City, NJ or at other locations within the Port District as required.

Meetings, presentations, and design reviews shall include, but not be limited to:

1. A kick-off meeting at the beginning of Stage II with the Authority and all key personnel of the Consultant and subconsultant team(s) to assure complete understanding of the status, goals, schedules, and objectives. The Consultant shall present the approach to conduct the geotechnical/waterproofing and structural testing in the kick-off meeting.
2. Consultant shall lead all multi-disciplinary coordination meetings in accordance with the project schedule in Section VIII;
 - a. Schedule bi-weekly meetings with Authority staff and others as required or directed by Authority staff, to assure a complete understanding of the project status, goals, schedules, and objectives;
 - b. Prepare an agenda for all the meetings, and submit to the Authority within two (2) business days in advance of the meetings;

- c. Submit draft minutes to the Authority of all meetings (both formal and informal) attended by the Consultant during all phases of design within three (3) business days of the meeting. Minutes shall identify items requiring follow-up action. Meeting minutes and follow-up action items are subject to Authority approval. Incorporate Authority comments as directed and resubmit as final within ten (10) business days of receipt of such comments, and implement such follow-up items as appropriate. Distribute copies of the final meeting minutes as requested by the Authority. Authority templates will be provided for the meeting minutes, agenda, and attendance documents; and
 - d. As part of final meeting minutes, submit a record of follow-up items and actions taken.
- 3. Meet with the Authority after each milestone submission to review comments. The Consultant shall assume that this review will occur at the appropriate bi-weekly meeting.
 - 4. Presentations: The Consultant shall prepare all required material for a minimum of three (3) presentations including, but not limited to, drawings, staging schemes, computations, construction cost estimates, and any backup information for construction tasks or unique system characteristics required.
 - 5. Present presentation in Microsoft Power Point to the Authority for constructability and staging review of the Project.
 - 6. At least two (2) meetings will involve risk assessment workshops participation after 50% and 100% submissions.
 - 7. Not all disciplines are required to attend all meetings. Attendance will be limited to required disciplines only. It is anticipated that all disciplines will attend the project kick-off meeting, milestone presentations and design review on-board meetings.

TASK C - FIELD VERIFICATION AND INSPECTIONS

- 1. Perform field surveys and testing, condition assessment of existing components, and taking appropriate field measurements to ensure the design package is complete and meets the objectives of design services listed in Section IV. The Authority will coordinate access to locations reasonably requested by the Consultant.
- 2. PATH staff will provide access and any servicing equipment needed at all field inspection locations requested by the Consultant teams. The inspection locations shall be specified by the Consultant teams and coordinated for approval by the Authority prior to proceeding with site investigation
- 3. Prepare an Environmental Survey Report. As part of the Field Verification and Inspections, the Consultant shall perform an Asbestos Containing Material (ACM) and other hazardous material survey of the existing areas/structures which are likely to be impacted as a result of the proposed construction. Perform sampling and analysis of materials which shall include but not be limited to ACM, lead paint, universal wastes, and PCBs (Polychlorinated biphenyls).
- 4. Prepare a sampling plan and submit to the Authority for approval. After approval of the sampling plan, execute the sampling plan under the oversight of the Port Authority Environmental Field Office (PA -EFO).

TASK D – DESIGN SCHEDULE

Submit a schedule/Work Breakdown Structure (WBS) for the Authority's review as outlined in Section VIII: Schedule and Submissions. The project schedule shall be prepared using Primavera P6 or industry software compatible with P6 and submitted via a live P6 file and PDF version.

The schedule shall be updated and submitted on a monthly basis (see Section VIII: Schedule and Submissions). Said schedule shall be submitted as a draft, and upon incorporation of the Authority's comments by the Consultant, re-submitted as final. The draft schedule(s) shall include or provide for, but not be limited to:

1. Meetings/presentations;
2. Project milestones and interdependencies;
3. Tasks/sub-tasks and other activities (e.g. permits);
4. Review and incorporation of Authority comments. Submission of a final monthly schedule by the Consultant;
5. Activities required to complete each task and the staff and discipline(s) assigned to each task.

TASK E - STAGE II DESIGN DEVELOPMENT

In addition to the items listed in Section IV, Scope of Services, the Design Development shall include, but not be limited to:

1. The design report shall establish all applicable criteria for the design and justify the design concept(s)/alternative(s) including an executive summary, project overview, existing conditions, codes/ standards used, constructability/staging issues, egress analysis, operational constraints, project schedule, identification of necessary permits, conceptual plans, list of materials, test results, and final design recommendations for the preparation of contract drawings.
2. Design drawings prepared in sufficient detail to include plans, elevations, typical sections, staging plans, MOT plans, details, etc.
3. A list of required Authority Standard Technical Specifications and any Custom Technical Specifications.
4. Design calculations including lighting level calculation and structural loading calculations.
5. Based on the Environmental Survey Report, prepare Stage II level abatement/removal of ACM and other hazardous materials impacted by the construction.
6. A list of required permits for the project, agencies approving the permits, and duration of time for permit approval.

TASK F - CONSTRUCTION COST ESTIMATE AND CONSTRUCTION SCHEDULE

The construction cost estimate and construction schedule shall include the scopes of design services listed in Section IV.

VI. DESCRIPTION OF THE CONSULTANT'S TASKS FOR FINAL DESIGN (STAGE III) – OPTIONAL TASKS

The Consultant shall not proceed with performance of this task without express written direction from the Authority to proceed. Ensure that the Contract Documents meet the objectives and intent of the Stage II design.

Prior to performance of this task, the Consultant shall submit the specific Quality Assurance/Quality Control Program for the professional services to be performed in connection with the final design and the preparation of Contract Drawings and Specifications specified herein.

Upon completion of the contract documents required hereunder, the Consultants shall submit a letter to the Authority certifying that the Consultant has performed the Quality Assurance/Quality Control Program as defined by the Consultant at the start of this Task and acknowledged by the Authority.

Construction Permits and Requirements:

1. Submit a list of permits and project approvals / authorization for extensive temporary and/or permanent construction on State property, City property, and private property. This shall include but not limited to lane closure permits, sidewalk closure permits, and construction laydown areas.
2. Determine if pre-application meetings with regulatory agencies are necessary for preparation of permit applications and supporting documentation.
3. For permits authorized by the Authority, upon notification by the Authority, undertake pre-application meetings and prepare permit applications with all necessary supporting documentation for permits cited in the notification. Submit these materials to the Authority for review.
4. Revise permit applications and supporting documentation upon receipt of comments from the Authority and prepare materials for submission to regulatory agencies. Notification as to whether or not the Authority will request the Consultant to act as its agent will be provided simultaneously with comments.
5. Upon direction from the Authority, submit application materials to regulatory agencies.
6. Provide additional information, as necessary, to address issues raised by regulatory agencies during the permit review process.

TASK A - MEETINGS

Meetings will take place at the Authority's Engineering and Architectural Design offices located at 4 World Trade Center, New York, NY, or at other locations within the Port District as required.

Meetings, presentations, and design reviews shall include but not be limited to:

1. Attending a kick-off meeting at the beginning of Stage III with the Authority and all key personnel of the Consultant and subconsultant team(s) to assure complete understanding of the status, goals, schedules, and objectives;
2. Attending bi-weekly meetings throughout Stage III to include design progress reviews, design team coordination, conferences or presentations as directed, or required, to

- complete design work. Meeting with the Authority after each milestone submission to review comments;
3. Consultant shall lead all multi-disciplinary coordination meetings in accordance with project schedule in Section VIII - Schedule and Submissions:
 - a. Prepare an agenda for all the meetings and submit to the Authority within two (2) business days in advance of the meetings;
 - b. Submit draft minutes to the Authority of all meetings (both formal and informal) attended by the Consultant during all phases of design within three (3) business days of the meeting. Minutes shall identify items requiring follow-up action. Meeting minutes and follow-up action items are subject to Authority approval. Incorporate Authority comments as directed and resubmit as final within ten (10) business days of receipt of such comments, and implement such follow-up as appropriate. Distribute copies of the meeting minutes as requested by the Authority as final. Authority templates will be provided for the meeting minutes, agenda, and attendance documents;
 - c. As part of final meeting minutes, submit a compiled record of follow-up items and actions taken.
 4. Presentations: The Consultant shall prepare all required materials for a minimum of two (2) presentations right after the 50% and 100% submissions including, but not limited to drawings, staging schemes, computations, construction cost estimates, and any backup information for construction tasks required.
 5. At least two (2) meetings will involve risk assessment workshops participation after 50% and 100% submissions.
 6. Not all disciplines are required to attend all meetings. Attendance of meetings will be limited to required disciplines only. It is anticipated that all disciplines will attend the project kick-off meeting, milestone presentations and design review on-board meetings.

TASK B - FIELD VERIFICATION SURVEYS

Perform additional field surveys necessary to ensure the design package is complete and meets the objectives stated herein. The Authority will coordinate access to locations requested by the Consultant.

1. Additional inspections, if necessary, shall be conducted with Authority personnel who will escort the Consultant.
2. PATH staff will provide access and any servicing equipment needed at all field inspection locations requested by the Consultant teams. The inspection locations shall be specified by the Consultant teams and coordinated for approval by the Authority prior to proceeding with any site investigation.
3. Submit copies of completed station report assessments and recommendations and meet with Authority staff to discuss those findings and determined design direction to be implemented.

TASK C - FINAL DESIGN AND CONTRACT DOCUMENTS

A. General Requirements for All Disciplines:

1. The Consultant shall be responsible for overall project and interdisciplinary coordination;
2. The Consultant shall be responsible for the overall project's constructability analysis, preparation of construction staging schedule, and phasing drawings in coordination with the involved disciplines;
3. The Consultant shall perform all tasks necessary to provide a complete set of contract drawings and specifications that are sufficient, accurate, and complete such that the Stage III package may be constructed as designed;
4. Contract Drawings:
 - a. Prepare final design and contract drawings for work to be performed by the Consultant based on the selected option from the final Stage I Report, which shall include, but not be limited to, the appropriate work items contained in the foregoing tasks;
 - b. Prepare all contract drawings on standard size (22" x 34") Permalife® plotter paper medium;
 - c. Authority Engineering Department staff will be verifying that submissions contain the "Permalife® 25% cotton content" watermark. Permalife® plotter specifications include:
 - 1) Watermarked for quality identification
 - 2) Acid Free with pH value between 7.5 and 10
 - 3) Buffered
 - 4) Lignin-free
 - 5) Tear Resistant
 - 6) Made from cotton (25% cotton / 75% cellulose fiber)
 - 7) 20 lb. bond
 - 8) 34" width x 300' (100 yds.)
 - 9) 3" core
5. For contract drawings, observe the following signature procedures:
 - a. All Consultant contracts shall have a cover sheet containing the facility name, contract title, and contract number. The cover sheet shall have the appropriate places for signature by Authority staff. No other information shall appear on the cover sheet. This will be the only Contract Drawing prepared by the Consultant that will be signed by Authority staff;
 - b. The Consultant shall sign and seal all drawings prepared by the Consultant;
 - c. Subconsultants shall sign and seal their own drawings. The Subconsultant's name shall appear on each drawing prepared by the subconsultants, as per Authority Standards;

- d. All drawings prepared by the Consultant shall be signed and sealed by the Principal(s) of the firm with a New Jersey Professional Engineer's or New Jersey Registered Architect's License. The Permalife® original shall be stamped such that the embossed seal will print. In addition, the following shall be placed below the seal:

ORIGINAL SEALED AND SIGNED BY:

N. J. P. E. # OR N.J.R.A #

- 6. Specification: Prepare specifications in accordance with the following:
 - a. Division 1 - Provide the following information for the Authority Standard Division 1 specifications, which will be prepared by the Authority staff:
 - 1) Information specifically related to conditions and precautions, staging, available property, temporary structures, work hours, and other general provision requirements of the subject contract;
 - 2) A list of the contract drawings;
 - 3) A list of unit price items, where appropriate, with description and estimated quantities for each item.
 - b. Technical Specifications:
 - 1) Authority technical specifications are provided as a guide to the Consultant. The Consultant is to modify these specifications to comply with Federal Transit Administration (FTA) requirements (e.g., Buy America), as appropriate.
 - 2) The Authority has prepared certain standard technical specifications, which will be made available electronically as requested by the Consultant. These standard technical specifications must be used by the Consultant and may not be altered or revised in any way by the Consultant. Since these standard Technical Specifications may contain materials and related procedures, which are not appropriate to the specific Contract being proposed, the contract drawings must clearly define the materials and scope of work. Division 1 of the Authority's specifications dealing with general provisions includes the following language: "In case of a conflict between a requirement of the contract drawings and a requirement in Division 1 of the Specifications, the requirement of Division 1 shall control. In case of a conflict between a requirement contained in other divisions of the Specifications and a requirement of the contract drawings, the requirement of the contract drawings shall control";
 - 3) Prepare any technical specifications, which are not available from the Authority. Any custom technical specifications prepared by the Consultant shall be in the same format as the Authority standard technical specifications and the Consultant shall make any changes therein requested by the Authority throughout its various reviews for the purpose of making the custom technical specification become standard technical specifications for future use;
 - 4) Comply with the Authority's Contract Unit Review Standards and Standard Technical Specification Index listed in Section X below;

- 5) Comply with the “Instructions to Consultants for Preparation of Port Authority Construction Contract Documents,” which will be made available upon commencement of work by the Consultant;
 - 6) Other than hard copies of specifications prepared by the Consultant that are to be submitted to the Authority as noted herein, the Consultant shall submit electronic copies of said specifications. The specification files shall be in the Authority’s format using Microsoft Word and shall be labeled to clearly indicate the specification title.
7. Construction Documents Deliverables:
- a. Provide detailed staging plans for all disciplines. Staging plans shall be coordinated with all other (or anticipated) projects in the surrounding region as determined by the Authority;
 - b. The completed contract drawings and Technical Specifications submitted above will be reviewed by the Authority. Following the Authority’s review, the Consultant shall incorporate and make all changes, if any, required by the Authority to the contract drawings and Technical Specifications and submit the revised contract drawings and Technical Specifications, which will be used for bidding purposes;
 - c. Original signed and sealed Permalife® paper copy of standard size (22” x 34”) engineering drawings showing all information and details. Contract Drawings may be reduced to one-half size prints before distribution. Permalife® originals shall be prepared in such a manner as to produce clearly legible drawings after reduction. Scales shall be graphical rather than numerical.
 - d. Provide electronic files of all drawings in both DWG and DWF format posted to the project website as directed by the Authority. If directed by the Authority provide PDF format of the drawings in addition to the formats above.
 - e. Three (3) copies of final design calculations (if applicable), including electronic files, computer printouts, and sketches in bounded form and PDF format posted to the project website. Design calculation shall indicate all applicable codes, design criteria, and assumptions, if any. The hard copy of the design calculations shall be signed and stamped by a Professional Engineer licensed in the state of New Jersey at the Final submission.
8. An Authority Engineering Department representative shall act as the Lead Engineer/Architect (LE/A) as defined by the Authority’s Engineering Department’s Project Delivery Manual (See Section X - Information and Materials Provided by the Authority, “Project Delivery – Roles and Responsibilities”), provided by the Authority, to coordinate internal Authority processes and procedures.
 9. Prepare and submit deliverables for key efforts, for Authority review, outlined in Section VI - Description Of The Consultant’s Tasks For Final Design (Stage III) and Section VIII - Schedule and Submissions.
 10. Authority Engineering CAD Standards shall be used for all CAD work submitted to the Authority for review. Refer to the latest version of the Authority Engineering/Architectural Design (EAD) CADD Standards for specific procedures and details, which can be found at Section X, A Engineering Reference Documents Number

3. The 50% and 100% submissions will be audited by the Authority for CAD compliance. The Consultant shall make the necessary changes, identified in the audit, to comply with Authority CAD Standards;
11. Provide a list of Authority standard technical specifications, custom specifications (if required) and detailed construction cost estimates, for the 50%, 100%, and final milestone submissions, conforming to Authority standards and requirements for all contract documents prepared hereunder. The final list of standard and custom specifications including Appendix A, shall be provided to the Authority discipline Task Leader for inclusion into Authority SMS (Submittal Management System). The SMS entries will be completed by the Authority discipline Task Leader.
12. Assess available documentation, conduct inspections/surveys of existing conditions;
13. Prepare contract documents (drawings/specifications) deliverable for 50%, 100%, and Final submissions. Said documents shall include plans, sections, elevations, and drawing details, general sheets and notes, schedules, etc., and Authority standard and non-standard (custom if applicable) specification lists for contract award and construction.
 - a. 50% submission shall include but not be limited to:
 - 1) Preliminary anticipated list of drawings;
 - 2) Preliminary multi-discipline coordinated Contract Drawings documenting the full scope of work;
 - 3) Preliminary construction staging plans, temporary facility plans and schedules;
 - 4) Preliminary detailed construction cost estimate;
 - 5) Preliminary list of standard and custom (if required) technical specifications; and
 - 6) Preliminary signed design calculations (if required) in hard copy and PDF format.
 - b. 100% Submission shall include but not be limited to:
 - 1) Incorporating 50% milestone review comments;
 - 2) 100% list of drawings;
 - 3) 100% multi-discipline coordinated Contract Drawings documenting the full scope of work;
 - 4) 100% construction staging plans, temporary facility plans, and schedules;
 - 5) 100% detailed construction cost estimate;
 - 6) 100% standard and custom (if required) technical specifications;
 - 7) If required, final sole source/sole brand items and signed letters; and
 - 8) 100% signed design calculations (if required) in hard copy and PDF format.
 - c. Final (Permalife[®]) Submission shall include but not limited to:
 - 1) Incorporating 100% submission Review milestone review comments;

- 2) Final list of drawings;
 - 3) Final multi-discipline coordinated Contract Drawings documenting the full scope of work;
 - 4) Final construction staging plans, temporary facility plans, and schedules;
 - 5) Final detailed construction cost estimate;
 - 6) Final standard and custom (if required) technical specifications;
 - 7) Final signed and sealed design calculations (if required) in hard copy and PDF format;
 - 8) Final Quality Assurance/Quality Control (QA/QC) conformance documentation letter;
14. Perform QA/QC checks. Submit QA/QC conformance documentation letter;
 15. Prepare all sole source and sole brand documents as required and as per FTA guidelines. Such documents shall include the Consultant's formal justification for sole source and the proposed vendor's quotation per Authority Standards;
 16. Provide a list of long lead items for review and approval by the Authority. Upon approval include those items in the Contract Documents (drawings, specifications, estimate, etc.) and construction schedule;
 17. Assist with project Risk Analysis as directed by the Authority;
 18. Provide support as needed for determining Permits and Approvals;
 19. Pre-Bid Services include but are not limited to:
 - a. Responding to bidder's question and/or Request for Information (RFI) during the bidding period;
 - b. Performing Bid analysis of contractor estimates with reference to the Engineer's estimate as directed by the Authority;
 - c. Preparing Contract addenda including Contract Drawing revisions and engineering calculations, as necessary or as requested by the Chief Engineer, for Authority approval and issuance by the Authority. Furnish originals for final printing; and
 - d. Conforming Contract Drawings and Technical Specifications to addenda when directed by the Chief Engineer after award of the Contract.
 20. Participate in a two (2) week milestone review and comment period following the 50%, and 100% submission. Responses shall be submitted to the Authority LE/A seven (7) business days after each milestone submission. A milestone review comment template will be provided. All agreed upon comments shall be incorporated in the subsequent milestone submission. Attend additional comments clarification meetings as required.

B. Architectural Services:

1. All design issues and solutions shall be submitted to the Authority for approval;
2. The Architectural drawings shall be completed for all design items in sufficient detail and appropriate scale such that member and equipment layouts, material, size, location, geometry, notes, and details are established and shown. The Architectural drawings

shall be clear and include all details and information required for the project such that shop drawings can be readily developed;

3. Provide removal plans, sections and details of station components and, materials that shall include but not be limited to the following: platforms, mezzanines, and public passageways, where applicable on finishes, ceilings, flooring, stairs, guardrails, and security fences pertaining to the project;
4. Participate in risk assessment of the project;
5. The Consultant shall be responsible for the overall project's constructability analysis, preparation of construction staging schedule, and phasing drawings in coordination with the involved disciplines;
6. The Stage III design drawings shall include, but not be limited to, plans, sections, drawing details, notes, and schedules as required for a biddable project.
7. Provide general drawings series, including regional and location plans, index of drawings, general notes, special inspections, field order items, and building code notes, standards and regulations;
8. Provide building sections interior elevations, flooring finishes and pattern arrangements of all renovated public areas and spaces of the stations' materials and features; and
9. Specifications for manufacturer's products including design and performance criteria, materials requirements, certifications and product testing requirements.

C. Structural Engineering Services:

Provide a complete design for all structural components required for the project. Structural components shall include but are not limited to:

1. Design verification of existing structural elements pertaining to the project;
2. All structural and foundation components required, including the removal, repairs, and modification of existing structures and structural supports for all associated mechanical, electrical, plumbing, and architectural components;
3. Hoboken Station Stair Number 3 replacements/reconstruction and permanent flood protection;
4. Permanent waterproofing and water leakage mitigation of the two stations;
5. Structural supports and components required for staging and relocation of existing utilities and other installations/construction included in the project;
6. Specification for manufacturer's products including design and performance criteria, material requirements, certification, qualifications, and product testing requirements;
7. Construction staging plan for structural work; and
8. Signed and sealed structural calculation for all structural components.

D. Civil Engineering Services:

1. Review and verify basis of design established by Stage 1 and Stage II and finalize contract documents accordingly.

2. Prepare contract documents for the Newport Station manhole modifications to make the drainage system surface and subsurface watertight.
3. Prepare contract documents for Hoboken Station Stair Number 3 site access in compliance with ADA accessibility requirements for station entry and exit.

E. Geotechnical Engineering Services:

1. Verification of existing geotechnical condition and report to the Authority if there are any changes between the conditions during the Stage II report and current site condition.
2. Develop contract documents to mitigate water infiltration and to create a watertight envelope both inside and outside of station structure at both stations based on the selected recommendations for waterproofing methodology/approach from Stage II Design Development.
3. Coordinate with other disciplines and provide construction staging plan.

F. Electrical Engineering Services:

1. Review basis of design as established by Stage I and Stage II documents and finalize the design accordingly.
2. Obtain and review record construction documents, perform further surveys, if required, and approved by the Authority, and conduct probe tests on the following components:
 - a. Cable testing in accordance to InterNational Electrical Testing Association (NETA).
 - b. Performance tests for electrical equipment including, but not limited to, lighting, receptacles, and ductbanks for identification of latent damaged electrical equipment.
3. Prepare contract documents and specifications for the removal and installation of electrical equipment, conduits, and cable components. Contract documents shall include but not limited to plans, details sections, panel and cable conduit schedules, single line diagrams, and control wiring diagrams.
4. Redesign lighting system and components.
5. Provide staging requirements to ensure that the removals and installation minimize disruption to the stations.
6. Provide a detailed list of repairs and remediation to the electrical equipment.
7. Coordinate electrical systems and designs with other disciplines' trades removals and installations.
8. Prepare construction cost estimate.

G. Mechanical Engineering Services:

1. Review basis of design as established by Stage I and Stage II documents, and finalize design accordingly;
2. Obtain and review record construction documents, perform further surveys if required, and approved by the Authority, to verify existing conditions and limitations for the removal/rehabilitation of equipment, piping, etc.;

3. Research Codes and provide standard for design;
4. Perform final component sizing and selection based on calculations;
5. Prepare contract documents and specifications for the removal and installation of HVAC equipment and associated ductwork, piping, compressed air system, and controls. Prepare contract documents and specifications for the removal and installation of plumbing piping, equipment, and controls. Contract documents shall include, but not be limited to plans, sections, details, flow diagrams, riser diagrams, schedules and control, and operation requirements; and
6. Provide staging requirements to ensure that the removal and installation minimize the disruption to the facility.

H. Plumbing and Fire Protection Services:

1. Review basis of design as established by Stage I and Stage II documents, and finalize design accordingly;
2. Obtain and review record construction documents and perform field surveys, if required, and approved by the Authority, to verify existing conditions and limitations for the removal/rehabilitation of equipment, piping, etc.;
3. Research Codes and provide standard for design;
4. Perform final component sizing and selection based on calculations;
5. Prepare contract documents and specifications for the removal and installation of plumbing and fire protection piping, equipment and controls. Contract documents shall include, but not be limited to, plans, sections, details, flow diagrams, riser diagrams, specifications, schedules, and operation requirements; and
6. Provide staging requirements to ensure that the removal and installation minimize the disruption to the facility.

I. Environmental Engineering Services:

1. Apply for and obtain, on behalf of the Authority, all environmental permits required to complete construction. Prepare and submit to all applicable regulatory agencies all required permit application packages, after review and approval by the Authority. Permit application packages shall include, but are not limited to, application forms, drawings, supporting documentation, public notifications, and fees;
2. Assume that pre-application meetings are required and undertake pre-application meetings when authorized by the Authority;
3. Revise permit applications and supporting documentation upon receipt of comments from the Authority and prepare materials for submission to regulatory agencies;
4. Provide additional information, as necessary, to address issues raised by regulatory agencies during the permit review process;
5. Prepare contract documents/drawings for the management, removal, abatement and disposal of asbestos, lead paint, universal, regulated, and hazardous wastes impacted by the construction;

6. Prepare contract documents/drawings to handle and dispose of excess excavated soil and dewatering. The Authority will provide standard contract notes for use as appropriate;
7. Incorporate any National Environmental Policy Act of 1969 / State Historic Preservation Office (NEPA/SHPO) requirements into the final design and contract documents;
8. Provide engineering design and cost estimate for management removal and disposal of ACM, PCBs, universal waste, and other hazardous or regulated materials;
9. The remediation design shall comply with applicable federal, state, and local codes, rules, and regulations; and
10. Prepare contract documents/drawings to address soil erosion and sediment control.

J. Electronic Engineering Services:

The Consultant shall provide the necessary technical design in developing the Stage III Final Design contract documents for Electronics. Designs shall comply with the Authority's Electronics Engineering Design Guidelines.

1. Provide signed and sealed drawings containing the electronic design for the systems, infrastructure, equipment, and tasks associated with this program.
2. Conduct field inspections of all areas as required by the Authority.
3. Assemble Contract drawings and correlate with the other disciplines.
4. Prepare conduit and cable schedules.
5. Prepare a construction cost estimate.
6. Meet with the Authority's Technology Department staff to identify existing electronics communications utilities not revealed under the Consultant's other investigation required under the project. Such information provided by the Authority shall be field verified by the Consultant before incorporating into the design.

TASK D – CONSTRUCTION COST ESTIMATE

Prepare a detailed construction cost estimate for Stage III in accordance with the Authority's Estimating Guidelines (Refer to Section X – Information and Materials provided by the Authority). Cost estimates shall include, but not be limited to, separate costs for labor, equipment, and materials, as well as temporary and permanent modifications or relocation of existing conditions, structures, and utilities. In addition, the cost estimate shall reflect conditions and precautions, winter suspensions, mobilization, shop drawings, hours of work, and security requirements in addition to recent trends of price escalation.

Construction Cost Estimate shall follow the Authority's guidelines and format in accordance with the Authority's "Construction Estimating Guidelines" (Refer to Section X – Information and Materials provided by the Authority - Engineering Available Documents for web address). All estimates shall be coordinated with the Authority Estimating Unit (AEU) prior to submission. The Consultant shall estimate five (5) business days for receipt of AEU comments, if any.

1. The construction cost estimate shall not include a design contingency;
2. Estimates shall be prepared for the 50%, 100%, and Final submissions;
3. The Final Stage III construction cost estimate shall be accurate and complete to reflect the actual construction cost of the project;
4. The construction cost estimate shall include itemized costs of all “Net Cost” and “Unit Cost” items;
5. Identify “Field Order Work” items as per Authority Standards and submit for review by the Authority. Incorporate list of approved “Field Order Work” items into the contract drawings and into the estimate as specified in item 4 of this Task D above; and
6. After review by the Authority, incorporate comments and/or changes, and resubmit as final.

TASK E – CONSTRUCTION SCHEDULE

Provide an estimate of the time required to complete construction, incorporating staging and permits as well as estimated delivery times for all long lead-time items for each alternative/option considered. Provide a short narrative in the report describing the construction cost schedule for each option and the optimum staging plan for construction. The construction schedule shall be prepared using Primavera P6 or industry software compatible with P6.

Present the construction schedule in bar chart form using days, weeks, or months as appropriate for the unit of time. Schedules shall be provided at Stage III 50% and 100% level of completion of the Final Design documents.

VII. DESCRIPTION OF THE CONSULTANT'S TASKS FOR CONSTRUCTION SERVICES (STAGE IV) - OPTIONAL TASKS

The Consultant shall not proceed with performance of this task without express written direction from the Authority. If directed, provide post award duties that the Consultant recommends to ensure that the construction meets with the objectives and intent of Stage III design for all disciplines.

Conform to the Authority’s QA/QC Program for the professional services to be performed in connection with the performance of your Post Award Duties specified hereunder. The Stage IV Tasks shall include, but not be limited to:

TASK A - GENERAL

1. Monitor Maintenance and Protection of Traffic in the field.
2. Maintain clear, dated records of all pertinent documents including but not limited to transmittals, submittals and responses, Requests for Information (RFI) and responses, meeting minutes, shop drawings mark-ups, designs, calculations, or drawings prepared during the construction phase. These documents shall be forwarded to the Authority in bound form.

TASK B - REQUESTS FOR INFORMATION (RFIs)

1. Review and respond to all RFI within the allotted time as specified by the Authority. RFI logs will be maintained by the Authority Construction Management Division.

2. Sketches submitted in response to RFIs shall be formatted using the Authority Stage IV sketch border(s) provided by the Authority post award. Border templates will be provided prior to the start of Stage IV services.

TASK C - SUBMITTAL REVIEW

1. Prepare and submit, at the first pre-construction meeting, an outline list of required Contractor's submittals to include but not be limited to, working drawings, catalog cuts, samples, certificates, calculations, and test reports, including submittal requirement in contract document.
2. Review and approve or disapprove all shop drawings, catalog cuts, calculations, and samples for conformance with the Specifications and Contract Drawings within seven (7) business days after receipt of said articles from the Contractor, for those articles for which you are Engineer of Record. Indicate any corrections and additions as required. Advise the Authority thereof giving the reasons for your decisions. Make all required distributions through final approval. Two (2) hardcopies and one (1) electronic copy of each working drawing shall be required;
3. Review and comment on Warrantees, Certifications, and Operation and Maintenance Manual(s) as required by the contract documents.
4. Review all other calculations and submittals prepared by the contractor including removal plans, erection/rigging plans, design of temporary structures, seismic supports for equipment and other components, and all other calculations required by the Specifications.

TASK D - FIELD VISITS AND MEETINGS

1. Attend bi-weekly field meetings with Authority staff to assist in addressing and resolving construction issues if required; and
2. Attend at the request of the Authority, two (2) pre-construction meetings and one (1) field meeting for each month of the construction period, in addition to any on-site visits and observations required as the Engineer-of-Record.

TASK E - RECORD DRAWINGS

1. Upon completion of construction, modify the Contract Drawings to "as-built" conditions and certify the same. The Authority will furnish the "as-built" information to be verified and incorporated; and
2. Submit a conformed set of drawings in the following formats:
 - a. One (1) copy of a reproducible set of standard size (22" x 34") engineering drawings showing all information and details; and
 - b. Electronic files of those drawings indicated in Task C under Stage III in both DWG and DWF shall be posted to the project website. In addition, submit in PDF format at the direction of the Authority.

VIII. SCHEDULE AND SUBMISSIONS

A. Submit all required submission documents to the Authority in both hard copies and electronic version simultaneously. Hardcopies will be submitted to Authority staff and electronic copies shall be posted to the project website as required.

B. All Consultant entities and personnel will be required to sign a Non-Disclosure Agreement prior to commencing work.

C. Stage II Deliverables:

Milestone submission shall be made at 50%, 100%, and Final completion of work. Consultant shall attend an on-board review meeting for each milestone submission as requested by the Authority.

D. Stage III Deliverables:

Milestone submission shall be made at 50%, 100% submission, and Final (Permalife®) completion of work with additional intermediate submission to Authority Discipline Task Leader for review as required. Consultant shall attend an on-board review meeting for each milestone submission as requested by the Authority.

DELIVERABLES		SUBMISSION REQUIREMENTS	DUE DATE (or calendar period after NTP)
STAGE II – DESIGN DEVELOPMENT			[8 months / 34 weeks duration]
1	Stage II Kick Off Meeting		1 week after Stage II NTP
2	Design Schedule, Including WBS	1 - Electronic copy (PDF/Live P6)	2 weeks after Stage II NTP
3	Architectural design development presentation		10 weeks after Stage II NTP
4	Station Testing Report Review	1 - Electronic copy (PDF) 5 – Bound Hardcopies	14 weeks after Stage II NTP
5	50% Stage II Report submission	1 - Electronic copy (PDF) 15 - Bound Hardcopies	19 weeks after Stage II NTP
6	100% Stage II Report submission	1 - Electronic copy (PDF) 15 - Bound Hardcopies	29 weeks after Stage II NTP
7	Final Stage II Report Submission	20 - 11 x 17 paper copies 1 electronic copy (PDF/DWG/DOCX)	33 weeks after Stage II NTP
8	Final Stage II Report Printing & Distribution		34 weeks after Stage II NTP
STAGE III – CONTRACT DOCUMENTS (Optional)			[12 months / 52 weeks duration]
1	Stage III Kick Off Meeting		1 week after Stage III NTP
2	50% Submission - Contract Documents/ milestone review	1 - Electronic copy (DWF/DWG/PDF) 20 – Hard copies	24 weeks after Stage III NTP
3	100% Submission (Authority Wide Review) - Contract Documents/ milestone review	1 - Electronic copy (DWF/DWG/PDF) 20 – Hard copies	40 weeks after Stage III NTP

DELIVERABLES		SUBMISSION REQUIREMENTS	DUE DATE (or calendar period after NTP)
4	Final (Permalife®) Contract Document Submission	22 x 34 Permalife® copy of each dwg. 1 - Electronic copy (DWF/DWG/PDF) 20 – Hard copies	48 weeks after Stage III NTP
5	Letter to the Engineer certifying the compliance with the Quality Assurance/Quality Control Program established for the preparation of contract Documents as required		48 weeks after Stage III NTP
6	Specific Quality Assurance/Quality Control Program for the professional services to be performed in connection with the performance of Post Award Duties		48 weeks after Stage III NTP
7	Obtain Signatures/Final EAD Documents		49 weeks after Stage III NTP
8	Submit Permalife® Originals to Contracts Unit		49 weeks after Stage III NTP
9	Contract Bid & Award		52 weeks after Stage III NTP
STAGE IV – POST AWARD SERVICES (Optional)			[24 months duration]
1	Construction Kick-Off Meeting		1 week after Contract Award
2	Construction Substantial Completion		20 months after Contract Award
3	Construction Final Completion (*)		24 months after Contract Award

(*) This is based on the assumption that construction will be held concurrently at each station with coordinated track outages.

IX. ADDITIONAL INFORMATION FOR THE PREPARATION OF CONTRACT DOCUMENTS AND CONSTRUCTION COST ESTIMATES

A. The following additional services shall be provided as part of this Agreement:

1. Respond to bidder's question during the bid period;
2. Prepare Contract Addenda including Contract Drawing revisions and engineering calculations, as necessary or as requested by the Chief Engineer, for Authority approval and issuance by the Authority. Furnish originals for final printing;
3. Conform Technical Specifications and Contract Drawings to addenda when directed by the Chief Engineer after award of the Contract; and
4. Upon request, assist Authority staff in Items C1, C3 and C4 specified below.

B. Authority staff will:

1. Prepare Information for Bidders, Form of Contract, Division 1 of the Specifications, and the Analysis of Bid and Contract Progress Schedule;
2. Meet with Consultant as needed to review all Specifications, Contract Drawings, construction cost estimates, and schedules prepared by Consultant;
3. Review with and transmit comments from, various Authority Departments to the Consultant for incorporation by the Consultant into the Contract Documents;
4. Review addenda with and obtain approval of various Authority Departments; and
5. Solicit, receive, open bids, and award Contract or reject bids.

C. Document Management Standards:

1. The Consultant shall maintain clear, dated records of all pertinent documents including but not limited to transmittals, submittals, and responses, Consultant or Authority requests and responses, meeting journals and minutes, drawings, original marked shop drawings, engineering design, calculations, and drawings prepared during each project Stage. These documents shall be made readily available for review by the Authority upon request. Upon the completion of project at the request of the Authority, all these documents shall be listed, bound, and submitted to the Authority;
2. Submit proposed paper and electronic formats of all deliverables for Authority approval prior to first or draft submittal; include this process on the appropriate schedule. In every instance when information can be communicated in several ways, propose the clearest and least complex method. For example, if possible, information that can be conveyed using visual information is preferred over text, matrices are preferred over narrative, complete diagrams are preferred over incomplete detailed drawings, and sketches and photographic images are preferred over complex rendered images;
3. Utilize and conform to Authority drawing and CAD standards;
4. Develop an internal document control and version control system for documents in coordination with existing Authority system;
5. Consult with the Authority and fully coordinate electronic strategy, so that all deliverables are accessible, and the drawings, specifications, schedules, and estimates become the basis for computer aided facilities management of the building as each construction phase is completed. Review the anticipated Authority electronic submission strategy and utilize approved hardware and software. The systems presently accepted are:
 - a. Microsoft Excel 2016: budgeting, cost monitoring, tables, and charts;
 - b. Microsoft Word 2016: word processing;
 - c. Microsoft Power Point 2016: graphics and presentations;
 - d. Microsoft Project 2016: design schedules;
 - e. Authority CADD and / or BIM Standards latest version;
 - f. Autodesk AutoCAD latest version used by the Authority; and

g. Oracle Primavera latest version used by the Authority.

Update software as required by the Authority.

6. Submit all contract documents to the Authority in both hard copy and electronic version simultaneously. Electronic documents shall be uploaded to the project website:
 - a. All reports shall be submitted in 11" x 17" black and white format unless otherwise noted;
 - b. All graphics shall be submitted in 8 ½" x 11" color format unless otherwise noted;
 - c. All drawings shall be submitted in 22" x 34" (full-size) and 11" x 17" (half-size) formats unless otherwise noted;

Follow Approved Quality Control Plan requirements for minutes, schedules, transmittals, correspondence and all other documents.

X. INFORMATION AND MATERIALS PROVIDED BY THE AUTHORITY

The Authority will make available for the Consultant's information certain documents below. The Authority makes no representation or guarantee as to, and shall not be responsible for, their accuracy, completeness or pertinence, and, in addition, shall not be responsible for the conclusions to be drawn there from. They are made available to the Consultant merely for the purpose of providing it with such information as is in the possession of the Authority, whether or not such information may be accurate, complete or pertinent, or of any value to the Consultant.

All reference documents listed below, as well as the Authority's standards and examples of the Authority's specifications will be made available to the Consultant. Documents will only be available if the Consultant meets the Authority's security requirements

A. Engineering Reference Documents

1. Estimating Guidelines/Procedures
<https://www.panynj.gov/business-opportunities/pdf/engineering-consultants-estimating-procedures.pdf>
2. Central Survey Group (CSG) CAD Standards
<http://www.panynj.gov/business-opportunities/pdf/engineering-consultants-csg-cad-standard.pdf>
3. Engineering/Architectural Design (EAD) CADD Standards
<http://www.panynj.gov/business-opportunities/pdf/engineering-consultants-ead-cad-standard.pdf>
4. Project Delivery – Roles and Responsibilities
<http://www.panynj.gov/business-opportunities/pdf/engineering-consultants-revised-roles-responsibilities.pdf>
5. Standard Technical Specifications Index

- <http://www.panynj.gov/business-opportunities/pdf/engineering-consultants-standard-specifications-index.pdf>
6. Design Guidelines Introduction
<http://www.panynj.gov/business-opportunities/pdf/discipline-guidelines/design-guidelines-introduction.pdf>
 7. Contract Unit Review Standards
<http://www.panynj.gov/business-opportunities/pdf/contracts-unit-review-standards.pdf>
 8. Electrical Design Guidelines
<http://www.panynj.gov/business-opportunities/pdf/discipline-guidelines/electrical.pdf>
 9. Architectural Design Guidelines
<http://www.panynj.gov/business-opportunities/pdf/discipline-guidelines/architecture.pdf>
 10. Civil Design Guidelines
<http://www.panynj.gov/business-opportunities/pdf/discipline-guidelines/civil.pdf>
 11. Structural Design Guidelines
<http://www.panynj.gov/business-opportunities/pdf/discipline-guidelines/structural.pdf>
 12. Environmental Design Guidelines
<http://www.panynj.gov/business-opportunities/pdf/discipline-guidelines/environmental.pdf>
 13. Geotechnical Design Guidelines
<http://www.panynj.gov/business-opportunities/pdf/discipline-guidelines/geotechnical.pdf>
 14. Mechanical Design Guidelines
<http://www.panynj.gov/business-opportunities/pdf/discipline-guidelines/mechanical.pdf>
 15. Traffic Design Guidelines
<http://www.panynj.gov/business-opportunities/pdf/discipline-guidelines/traffic.pdf>
 16. Climate Resilience Design Guidelines
<http://www.panynj.gov/business-opportunities/pdf/discipline-guidelines/climate-resilience.pdf>
 17. Sustainable Building Guidelines
<http://www.panynj.gov/about/pdf/sustainable-building-guidelines.pdf>
 18. Sustainable Infrastructure Guidelines

http://www.panynj.gov/business-opportunities/pdf/PANYNJ_sust_infra_guidelines.pdf

19. Technology Standards Overview for the Port Authority

http://www.panynj.gov/business-opportunities/pdf/55256_Exhibit_6.pdf

B. Engineering Available Documents

1. Stage I Report (Vol. 1 & 2)– PATH TOR 56 – Rehabilitation of Hoboken, Newport, Exchange Place and Grove Street Stations.
2. PATH Newport Station Internal Leakage Repair Scoping Report by Mott MacDonald, 2017.
3. PATH Hoboken Station Flood Resiliency – Exterior Stairs #1, 3, 4, 5, 9, 10 Stage I Report, 2015.
4. PATH Exterior Stairs Flood Resiliency, PAT-784.162, 2017.
5. Hoboken Station Stair Studies - Stair No. 3 Elevations – Kallwall Skylight Clerestory Scheme, 2017.
6. Hoboken Station Back-Up Power and Rehabilitation of Electrical Room, PAT-624.345, 2006 (To be provided to selected Consultant)
7. Newport Station – Additional Stair and Elevator to Side Platform, PAT-684.015, 2000.
8. Pavonia Station Modernization Component A, PAT-150.154 A, 1987
9. Pavonia Station Modernization Component B Plumbing Drawings, PAT-150.154 B, 1988
10. Pavonia Station Repair of Leaks at South End of Platform Electrical Removals and Relocations, PAT – 444, 1991
11. PATH Exchange Place and Newport Station Headhouses Permanent Flood Protection, PAT – 784.169, 2017
12. Replacement of flood proof doors locations drawings, 2018.

XI. CONDITIONS AND PRECAUTIONS

A. General:

1. The Consultant shall immediately inform the Authority of any unsafe condition discovered at any time during the course of this work.
2. Vehicular traffic at the site of the Consultant's work shall always have priority over any and all of the Consultant's operations.

B. Work Areas:

1. The Consultant shall limit their inspection work to the areas necessary for the performance of their work and shall not interfere with the operation of the facility without first obtaining specific approval from the Chief Engineer/Architect;
2. During all periods of time when Consultant is not performing operations at the work site, the Consultant shall store all equipment being used for the inspection in areas

designated by the Chief Engineer and shall provide all security required for such equipment;

3. The Consultant shall not permit any objects or pieces of equipment to lie unattended on sidewalks, roadways, or structures at any time;
4. Photographing of the station and surrounding area is not permitted without approval from the Authority; and
5. The Consultant shall take steps necessary to ensure the safety of its staff and conduct its activities to not interfere with operations of Hoboken and Newport PATH Stations.

C. Work Hours:

1. The Consultant shall perform their work at the site during day and evening hours, Monday through Friday, as directed by the Authority.
2. In any case, no work shall be performed at the site on any legal holidays observed by the Authority, unless otherwise directed by the Authority.

D. Field Services

The Consultant performing field services hereunder shall, at a minimum:

1. Be qualified as per National Fire Protection Association Standard for Electrical Safety in the Workplace (NFPA-70E);
2. Have up-to-date training in electrical safety and shall apply and utilize their own Personal Protective Equipment (PPE) for electrical shock hazards and arc flash hazards;
3. Wear a minimum of #2 PPE rated 8 cal/cm² with a Category 2 protective shield and hearing protection at all times when exposed to energized electrical equipment; and
4. Wear safety shoes, hardhat, safety glasses and a reflective vest.

PATH personnel will escort the Consultant in the performance of its field services.

E. PATH on-track safety program, Consultant training of workers:

The Authority requires that all Consultant personnel who may enter the track area at any time be certified by successfully completing the "PATH ON-TRACK SAFETY PROGRAM" in compliance with the Rules and Regulations set forth in Federal Railroad Administration (FRA) Regulation 49 CFR, Part 214, Subpart C, entitled "RAILROAD WORKERS PROTECTION." Consultant personnel not certified under this program will not be permitted to enter the PATH track area. On a monthly basis, PATH will provide a four (4) hour certification class at a PATH location in Jersey City, which includes a certification test to supervisory staff representing the Consultant. The 52 Consultant's supervisory staff will then be required to train and certify all additional Consultant personnel that may be performing Work of the Contract. A letter certifying that the listed Consultant personnel have been trained on the "PATH ON-TRACK SAFETY PROGRAM" and, that they fully understand and will comply with all requirements of FRA rules, shall be filed with PATH's Safety Supervisor at One PATH Plaza, Jersey City, NJ 07306, 10th Floor within 48 hours of such training. Only persons specified in such letter will be permitted to enter the track area. Certificates will be

forwarded to Consultant seven days after grading of test. To schedule a class, call 201-216-6260.

The Consultant shall take steps necessary to ensure the safety of its staff and conduct its activities to not interfere with operations of PATH.

F. Security Requirements

1. High Security Areas:

- a. Services may be required in high security areas designated by the Authority as needed. PATH shall require the observance of certain security procedures with respect to the high security areas, which may include the escort of Consultant's or any sub-consultant's personnel required to work therein to, at, and/or from said high security areas by security personnel designated by PATH.
- b. Notify the Authority five (5) business days before the performance of any fieldwork in a designated high security area. The Consultant shall conform to the procedures as may be established by the Authority as needed and at any time for access to high security areas and the escorting of personnel hereunder. Prior to the start of work, the Consultant shall request a description of the current security requirements from the Authority of the high security areas, which will be in effect on the commencement date. The description of high security areas may be changed, at any given time by the Authority, during the term of the agreement:
 - 1) require that the Consultant and Subconsultants, when appropriate, sign Non-Disclosure Agreements (NDA), or an Acknowledgment of an existing NDA, provided by the Authority as a condition of being granted access to CI categorized and protected as per the Handbook;
 - 2) require that individuals needing access to CI be required to undergo a background check, pursuant to the process and requirements noted in § 3.2 of the Handbook;
 - 3) require Consultants and commercial enterprises to attend training to ensure security awareness regarding Authority and PATH information;
 - 4) specific guidelines and requirements for the handling of CI to ensure that the storage and protection of CI;
 - 5) restrictions on the transfer, shipping, and mailing of CI;
 - 6) prohibitions on the publication, posting, modifying, copying, reproducing, republishing, uploading, transmitting, or distributing CI on websites or web pages. This may also include restricting persons, who either have not passed a pre-screening background check, or who have not been granted access to CI, from viewing such information;
 - 7) require that CI be destroyed using certain methods, measures or technology pursuant to the requirements set forth in the Handbook;
 - 8) require the Consultant to mandate that each of its Subconsultants maintain the same levels of security required of the Consultant under any Authority or PATH awarded contract;

- 9) prohibit the publication, exchange or dissemination of CI developed from the project or contained in reports, except between Consultants and Subconsultants, without prior approval of the Authority; and
- 10) require that CI only be reproduced or copied pursuant to the requirements set forth in the Handbook.

G. Drugs and Alcohol Program

Effective June 12, 2017 (the "Effective Date,") the Consultant and its subconsultants, which perform regulated services (as defined in 49 CFR Part 219) for PATH, shall comply with the Federal Railroad Administration ("FRA") 49 CFR 219 "Control of Alcohol and Drug Use" ("Part 219.") For the purposes of compliance, the Consultant and its subconsultants shall not be included in the Port Authority or PATH Part 219 Compliance Program and must therefore comply as otherwise set forth in Part 219. In order to perform Work covered by Part 219 after the Effective Date, Consultant and its subconsultants shall submit to PATH a written certification that the Consultant and its subconsultants are in compliance with all applicable parts of Part 219. This certification and any other documentation required by PATH or Part 219 must be provided prior to performing Work covered by Part 219 under the Agreement and at least every six (6) months during the duration of the Agreement, or at any other frequency determined by PATH or required by the FRA.

The Consultant's, or its subconsultants', failure to comply with any provision of this numbered clause may be deemed as a substantial breach of this Agreement.

ATTACHMENT A1

AUTHORITY'S LIMITED ENGLISH PROFICIENCY (LEP) PLAN

2015

Limited English Proficiency (LEP) Plan



Submitted by: The Port Authority of New York
and New Jersey

Government and Community Relations

4/1/2015

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INTRODUCTION

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

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

LEP OVERVIEW

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

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

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

The U.S. Department of Transportation (DOT) published its *Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency Persons* in Federal Register/Vol. 70, No. 239, pp. 74087-74100, December 14, 2005 (DOT LEP Guidance). The FTA also published additional LEP guidance in its Circular 4702.1B *Title VI Requirements*

and *Guidelines for Federal Transit Administration Recipients*. Each of the guidance resources noted above requires recipients to develop an LEP Plan consistent with the provisions of Section VII of the DOT LEP Guidance.

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

LEP ANALYSIS GUIDANCE

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

The four-factor analysis involves four steps:

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

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

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

Best practices include:

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

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

DOT LEP Guidance, Section V (2), states in part that *“Recipients should assess, as accurately as possible, the frequency with which they have or should have contact with LEP individuals from different language groups seeking assistance, as the more frequent the contact, the more likely enhanced language services*

will be needed. The steps that are reasonable for a recipient that serves an LEP person on a one-time basis will be very different than those expected from a recipient that services LEP persons daily.”

Best practices include:

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

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

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

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

Best practices include:

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

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

LEP.gov notes, “For larger documents, translation of vital information contained within the document will suffice and the documents need not be translated in their entirety.”

Factor 4: Assess the resources available to the recipients and the costs.

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

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

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

Best practices include:

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

SELECTING LANGUAGE ASSISTANCE SERVICES

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

ORAL LANGUAGE SERVICES (INTERPRETATION)

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

WRITTEN LANGUAGE SERVICES (TRANSLATION)

Translation is the replacement of a written text from one language into an equivalent written text in another language. Translators should understand the expected reading level of the audience and, where appropriate, have fundamental knowledge of the target language group’s vocabulary and phraseology.

What to translate? Examples of materials that may be translated include:

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

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

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

SAFE HARBOR PROVISION

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

1. The recipient provides written language translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected by service changes or facility activities; and
2. If there are fewer than 50 persons in a language group that reaches the 5% trigger in 1 above, the recipient does not have to translate vital written materials but must provide notice of the right to receive competent oral interpretation of those written materials, free of costs.

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

Nonetheless, the Port Authority recognizes the presence of languages other than Spanish and Chinese within the service area that fall under the Safe Harbor provision and as such, regularly assesses LEP needs on a project-by-project basis, utilizing demographic analysis gathered from Census bureau statistics. In addition, Port Authority liaisons from the Government & Community Relations department maintain regular communication with local elected officials and community leaders to ensure the needs of impacted, harder to identify, LEP populations are

considered. The Agency makes a concerted effort, leveraging its finite resources, to address individual requests for the translation of vital documents into languages other than Spanish and Chinese, within a reasonable timeframe.

LANGUAGE ASSISTANCE PLAN

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

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

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

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

RESULTS OF THE FOUR-FACTOR ANALYSIS

Factor 1 Results:

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

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

County-level data is derived from the U.S. Census Bureau's American Community Survey, 2008-2012 5-Year Estimates, Tables S1601 and B16001, "Language Spoken at Home" and "Language Spoken at Home by Ability to Speak English" for the population age five years and over. Data presented displays all languages reported, is an

indication of those within the population age five and over, and identifies those who speak a language other than English and those who speak English less than very well. Those populations are displayed as “Limited English Proficiency” populations.

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

Port Authority Service Area LEP Table

PA Service Area					
Total Population			16,555,189		
Total LEP Population			3,045,624		
Total LEP Percent			18.4%		
Language	LEP Pop.	% LEP	Language	LEP Pop.	% LEP
Spanish or Spanish Creole	1,623,514	9.66%	Japanese	20,013	0.12%
Chinese	352,332	2.10%	Other Slavic	15,820	0.09%
Russian	137,986	0.82%	Hebrew	14,329	0.09%
Korean	95,173	0.57%	Vietnamese	12,949	0.08%
French Creole	78,954	0.47%	Persian	12,213	0.07%
Other Indic	78,641	0.47%	Serbo-Croatian	11,297	0.07%
Italian	74,051	0.44%	German	8,547	0.05%
Polish	60,769	0.36%	Hungarian	5,546	0.03%
Portuguese or Portuguese Creole	51,190	0.30%	Other Pacific Island	5,184	0.03%
Arabic	46,416	0.28%	Thai	4,823	0.03%
Other Asian	42,695	0.25%	Other and Unspecified	3,990	0.02%
Yiddish	39,565	0.24%	Armenian	3,579	0.02%
Tagalog	38,140	0.23%	Mon-Khmer, Cambodian	1,315	0.01%
French (incl. Patois, Cajun)	34,770	0.21%	Scandinavian	1,274	0.01%
Gujarati	30,170	0.18%	Other West Germanic Languages	1,114	0.01%
African languages	29,988	0.18%			
Other Indo European	29,656	0.18%	Other Native North American	471	0.00%
Urdu	29,582	0.18%	Laotian	251	0.00%
Hindi	25,939	0.15%	Hmong	27	0.00%
Greek	23,592	0.14%	Navajo	10	0.00%
Source: U.S. Census Bureau, American Community Survey 2008-2012 5 Year Estimates, Table B16001.					
Languages under white field met the Limited English Proficiency population threshold.					

Path Service Area LEP Table

PATH Service Area					
Total Population			2,596,368		
Total LEP Population			509,760		
Total LEP Percent			19.6%		
Language	LEP Pop.	% LEP	Language	LEP Pop.	% LEP
Spanish or Spanish Creole	327,053	11.51%	German	1,494	0.05%
Chinese	55,539	1.95%	Other Slavic	1,424	0.05%
Portuguese or Portuguese Creole	19,088	0.67%	Greek	1,326	0.05%
French Creole	11,556	0.41%	Hebrew	1,205	0.04%
French (incl. Patois, Cajun)	10,074	0.35%	Serbo-Croatian	1,136	0.04%
Arabic	8,390	0.30%	Persian	1,025	0.04%
Tagalog	7,608	0.27%			
Korean	6,727	0.24%	Thai	542	0.02%
Japanese	6,568	0.23%	Hungarian	529	0.02%
African languages	6,135	0.22%	Other Pacific Island	487	0.02%
Russian	6,060	0.21%	Other and Unspecified	470	0.02%
Italian	5,952	0.21%	Armenian	428	0.02%
Gujarati	4,805	0.17%	Scandinavian	297	0.01%
Polish	4,769	0.17%	Other West Germanic Languages	265	0.01%
Hindi	4,603	0.16%	Yiddish	190	0.01%
Other Indic	3,812	0.13%	Other Native North American	155	0.01%
Other Asian	3,405	0.12%	Mon-Khmer, Cambodian	68	0.00%
Urdu	2,473	0.09%	Hmong	-	-
Other Indo European	2,107	0.07%	Laotian	-	-
Vietnamese	1,995	0.07%	Navajo	-	-

Source: U.S. Census Bureau, American Community Survey 2008-2012 5 Year Estimates, Table B16001.
Languages under white field met the Limited English Proficiency population threshold.

The data analysis, depicted in the above tables concludes that the Port Authority Service and PATH Service Area's regional average of the LEP population is 18.4% and 19.6% respectively. Of this percentage, Spanish or Spanish Creole is overwhelmingly the most dominant LEP language spoken and utilized within the service areas, accounting for 9.66% and 11.51 % of the population respectively. By contrast, the second most commonly spoken LEP language, Chinese, constitutes just 2.10% and 1.95% of the PA and PATH service area populations respectively.

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

Factor 2 Results:

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

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

Additionally, individual departments conducted research and regularly collect data. For example, the Aviation Department determined language assistance needs based on the top 27 most spoken languages internationally. This list remains relatively stable and, typically, languages added are not removed. Terminal by Terminal Customer Satisfaction Surveys, conducted by the Aviation Department, were another useful tool to determine eligible LEPs to

be served. Approximately 10,000 arriving and departing passengers were annually canvassed and most recently the questionnaires were provided in English, Spanish, French, German*, Italian, Japanese, Mandarin, and Korean* languages (*added in 2014). The selected languages were based on the languages spoken by a proportion of annual passengers flying on a carrier and the additional development cost to accommodate the foreign language given the proportion of potential users – noting that only a small proportion of our passengers (5% across the region) may have difficulty with English and use the foreign-language survey. Introductory show cards were also presented to prospective respondents and some foreign-language speaking interviews were conducted to help with language barriers. The Rail Transportation Department (PATH) also utilized surveys to garner LEP information in addition to Census data. An Origin and Destination (O&D) Survey (last conducted in 2012) was used to determine the most frequently used languages for LEP individuals. The eligible service population was based on a combination of Census Tract-level data for customers within a one-mile walking distance from each station and county-level census data for customers who make up more than 10% of a given transit mode to access PATH. The results, which mirror the demographic data for the service area, indicate that the highest percentages of individuals with limited English proficiency speak Spanish, followed by Chinese in a distant second.

Factor 3 Results:

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

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

Factor 4 Results:

Assess the resources available to the recipients and costs.

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

LANGUAGE ASSISTANCE SERVICES

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

WRITTEN LANGUAGE SERVICES (TRANSLATION)

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

ORAL LANGUAGE SERVICES (INTERPRETATION)

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

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

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

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

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

INTERPRETATION SERVICES

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

PROVIDING NOTICE TO LEP PERSONS

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

Signs indicating LanguageLine translation services are posted.

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

MONITORING AND UPDATING THE LANGUAGE ASSISTANCE PLAN

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

ATTACHMENT B

AGREEMENT ON TERMS OF DISCUSSION

ATTACHMENT B

REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE PORT AUTHORITY TRANS-HUDSON CORPORATION (PATH) REHABILITATION OF THE HOBOKEN AND NEWPORT STATIONS DURING 2019 THROUGH 2023 (RFP #58432)

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

ATTACHMENT C
COMPANY PROFILE

**REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT
PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE
PORT AUTHORITY TRANS-HUDSON CORPORATION (PATH) REHABILITATION
OF THE HOBOKEN AND NEWPORT STATIONS DURING 2019 THROUGH 2023
(RFP #58432)**

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 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

INSURANCE REQUIREMENTS

ATTACHMENT D

INSURANCE REQUIREMENTS

LIABILITY INSURANCE AND WORKERS' COMPENSATION INSURANCE

A. Commercial Liability Insurance:

1) The Consultant(s), and all of its/their Sub-consultants shall take out, maintain, and pay the premiums on **Commercial General Liability Insurance** for the life of the Agreement and such Insurance and shall be written on an ISO occurrence form covering the obligations assumed by the Consultant(s) under the Agreement, including, but not limited to, Premises-Operations, Products and Completed Operations, and Independent Contractor's coverages, with contractual liability language covering the obligations assumed by the Consultant(s) with insurance covering against claims for injuries to persons or damages to property which may arise from or in connection with products and materials supplied to the Agency in limits of not less than **\$10,000,000** combined single limit per occurrence and in the annual aggregate. If vehicles are to be used to carry out the performance of the Agreement, then the Consultant(s) shall also take out, maintain and pay the premiums on **Automobile Liability Insurance** covering all owned, non-owned and hired autos in not less than **\$10,000,000** combined single limit per accident for bodily injury and property damage.

The insurance shall be written on an occurrence basis, as distinguished from a "claims made" basis, and shall not include any exclusions for "action over claims" (insured vs. insured) and minimally arranged to provide and encompass at least the following coverages and Key terms:

- Contractual Liability to cover liability assumed under the Agreement;
- Independent Contractor's Coverage;
- Premises-Operations, Products and Completed Operations Liability Insurance;
- The insurance coverage (including primary, excess and/or umbrella) hereinafter afforded by the Consultant(s) and Sub-consultant(s) shall be primary insurance and non-contributory with respect to the additional insureds;
- Excess/umbrella policies shall "follow form" to the underlying policies;
- Excess/umbrella policies shall have a liberalization clause with drop down provision;
- To the extent any coverage the Consultant(s) and Sub-consultant(s) obtains and/or maintains under the Agreement contains "Other Insurance" language or provisions shall not be applicable to the additional insureds or to any insurance coverage maintained by the additional insureds;
- All insurance policies shall include a waiver of subrogation, as allowed by law, in favor of the additional insureds;
- Defense costs must be outside of policy limits. Eroding limits policies are not permitted;
- In the event the Consultant(s) and/or its Sub-consultant(s) obtains and/or maintains broader coverage and/or insurance in an amount greater than the minimum limits required under the Agreement, then the full limits of that insurance coverage will be available to respond to any claims asserted against the additional insureds that arises out of or is in any way connected with the Agreement;
- Additional insureds coverage shall not be restricted to vicarious liability unless required by controlling law;

In addition, the liability policy(ies) shall be written on a form at least as broad as ISO Form CG 20 10 10 01 (for ongoing operations work) together with ISO Form CG 20 37 10 01 (for completed operations work) or their equivalent and endorsed to name "The Port Authority of New York and New Jersey, and its related entities, their Commissioners, Directors, Superintendents, officers, partners, employees, agents, their affiliates, successors or assigns", as "Insured" (as defined in the policy or in an additional insured endorsement amending the policy's "Who Is An Insured" language as the particular policy may provide) on its liabilities policies with respect to liability arising out of work or operations performed by or on behalf of the Consultant(s) including, but not limited to, materials, parts or equipment furnished in connection with such work or operations. The "Insured" shall be afforded coverage and defense as broad as if they are the first named insured and regardless of whether they are otherwise identified as additional insureds under the liability policies, including but not limited to premises-operations, products-completed operations of the Commercial General Liability Policy. Such additional insureds status shall be provided regardless of privity of contract between parties. The liability policy(ies) and certificate of insurance shall contain cross-liability language providing severability of interests so that coverage will respond as if separate policies were in force for each insured. An act or omission of one of the insureds shall not reduce or void coverage to the other insureds. The Consultant(s) is/are responsible for all deductibles or losses not covered by commercially procured insurance. Any portion of the coverage to be provided under a Self-Insured Retention (SIR) of the Consultant(s) is/are subject to the review and approval of the General Manager, Risk Financing. Furthermore, any insurance or self-insurance maintained by the above additional insureds shall not contribute to any loss or claim.

Any self-insured retention shall cover any liability imposed upon the Consultant(s) and any and all subsidiaries with respect to all operations and obligations assumed by the Consultant(s) and any and all subsidiaries. The undersigned represents that such program provides the Additional Insureds (as defined in the Agreement) with all rights, immunities and protections that would be provided by traditional independent insurance required under the Agreement, including, but not limited to, the defense obligations that insurers are required to undertake in liability policies pursuant to the terms of the Agreement.

If any of the Work is to be done on or at Port Authority facilities by the Sub-consultants and, if the Consultant(s) requires its Sub-consultant(s) to procure and maintain such insurance in the name of the Consultant(s), then such insurance as is required herein shall include and cover the additional insureds and it must have insurance limits not lower than those set forth by the Port Authority herein, along with all the insurance requirements in this section.

Further, it is the Consultant's responsibility to maintain, enforce and ensure that the type of coverages and all limits maintained by it and any of all Sub-consultants are accurate, adequate and in compliance with the Port Authority requirement. All certificates of insurance shall be turned over to the Port Authority prior to the start of work, and upon completion of the Agreement.

The Following language shall be endorsed to all policies:

"The Consultant, its Sub-consultant(s) and its insurer(s) shall not, without obtaining the express advance written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the Tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the

governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.”

2) Workers' Compensation Insurance:

The Consultant(s) and its/their Sub-consultant(s) shall take out, maintain and pay premiums on Workers' Compensation Insurance in accordance with the requirements of law in the state(s) where work will take place, and Employer's Liability Insurance with limits of not less than **\$1,000,000** each accident. Such policy shall include a waiver of subrogation endorsement in the benefit of the additional insureds.

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

- a) Endorsement to eliminate any exclusions applying to the explosion, collapse, and underground property damage (XCU) hazards.
 - b) Endorsement to eliminate any exclusions on account of ownership, maintenance, operation, use, loading or unloading of watercraft.
 - c) Coverage for work within fifty (50) feet of railroad.
- 4) Additional Coverages:** The Consultant(s) shall have the policy endorsed when required by the Chief Engineer for specific services hereunder and include the additional premium cost thereof as an out-of-pocket expense:
- a) United States Longshoremen's and Harbor Workers' Compensation Act Endorsement.
 - b) Coverage B Endorsement - Maritime (Masters or Members of the Crew of Vessels), in limits of not less than \$1,000,000 per occurrence.
 - c) Amendments to Coverage B, Federal Employers' Liability Act in limits of not less than \$1,000,000 per occurrence.

5) Professional Liability Insurance:

The Consultant(s) shall take out, maintain and pay premiums on Professional Liability Insurance in limits of not less than **\$10,000,000** each occurrence, covering acts, errors, mistakes, and omissions arising out of the work or services performed by Consultant(s), or any person employed by Consultant(s). All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on an occurrence basis or may be written on a claims made basis with a minimum of a three-year reporting/discovery period.

6) Railroad Protective Liability Insurance:

Prior to commencement of any Work on PATH property, the Consultant shall furnish evidence that, with respect to the operations it or any or its subcontractors perform, it has provided Railroad Protective Liability Insurance (AAR-AASHTO form), in the name of Port Authority Trans Hudson Corporation (PATH) providing for a limit of not less than \$2,000,000 (Two Million) each occurrence single limit, bodily injury and property damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for

damage to or destruction of property, including the loss of use thereof, in any one occurrence. Such insurance shall be furnished with an aggregate of not less than \$6,000,000 (Six Million) for all damages as a result of more than one occurrence. Policy must be endorsed to provide coverage for claims arising from injury to employees covered by Federal Employer's Liability Act (FELA).

7) Environmental Liability Insurance:

Environmental/Hazardous Materials, then the Consultant and its Sub-consultant(s) shall procure and maintain in force an Environmental Liability Insurance Policy covering the Contractor's pollution legal liability, including cleanup, transportation with limits not less than \$5,000,000 per occurrence for bodily injury and property damage tailored to the specific exposures as they relate to the work of this Agreement. Such policy and any certificate of insurance submitted hereunder in relation to such policy shall (I) be expressly endorsed for each Authority facility under this Agreement and each transfer location, travel route and material disposition location selected by the Consultant, (ii) state that claims disputes and coverage shall be litigated in United States courts having jurisdiction, and not be limited to arbitration, and (III) acknowledge the Consultant's disclosure to the insurance carrier that the material may be considered a hazardous substance/waste under applicable law including, but not limited to, RCRA and/or CERCLA and/or the Toxic Substance Control Act (TSCA). It should be noted that the substances may be considered "hazardous" under CERCLA, but not necessarily "hazardous" under RCRA and that such materials if RCRA "hazardous" would require a manifest and disposal certificate under RCRA at a Subtitle C hazardous waste disposal facility. A copy of this Agreement, including all schedules and documents attached hereto, shall be provided to the insurance carrier. The policy shall provide transportation coverage for the loading and unloading and hauling of waste materials, including asbestos material and lead paint, from the site to the final disposition location. Any additional insurance requirements, permits, licenses and other forms of documentation required by the United States Dept. of Transportation, The Environmental Protection Agency and/or federal, state and local laws, rules and regulations shall be the sole responsibility of the Consultant. Deductibles shall not reduce the limit of liability. The policy form must "pay on behalf of" rather than "indemnify the insured". The policy shall not contain a sunset provision, or any other provision, which would prohibit the reporting of a claim and the subsequent defense and indemnity that would normally be provided by the policy.

Each policy above shall contain an endorsement that the policy may not be canceled, terminated or modified without thirty (30) days' prior written notice to the Project Manager, at the location where the work will take place with a copy to the General Manager, Risk Financing.

The Port Authority may, at any time during the term of this Agreement, change or modify the limits and coverages of insurance. Should the modification or change result in an additional premium, the General Manager, Risk Financing for the Port Authority may consider such cost as an out-of-pocket expense.

Within five (5) days after award of the Agreement and prior to the start of work at the site, the Consultant(s) must submit an original certificate of insurance, to the Project Manager at the location where the work will take place. This certificate of insurance MUST show evidence of the above insurance policy(ies), including, but not limited to, the title of this Agreement, the P. A. Agreement number, the notice of cancellation provisions, prior to the start of work. The

Consultant(s) is/are also responsible for maintaining and conforming to all insurance requirements from the additional insureds and their successors and assigns. The General Manager, Risk Financing must approve the certificate(s) of insurance before any work can begin. Upon request of the General Manager, Risk Financing/Treasury, the Consultant shall furnish to the Authority a certified copy of each policy itself, including the provisions establishing premiums.

Renewal certificates of insurance or policies shall be delivered to the Authority's Project Manager, and upon request from the additional insureds, their successors or assigns at least fifteen (15) days prior to the expiration date of each expiring policy. The General Manager, Risk Financing must approve the renewal certificate(s) of insurance before work can resume on the facility. If at any time any of the certificates or policies shall become unsatisfactory to the Authority, the Consultant(s) shall promptly obtain a new and satisfactory certificate and policy and provide same to the Port Authority.

If at any time the above liability insurance should be canceled, terminated, or modified so that the insurance is not in effect as above required, then, the Consultant(s) and all Sub-consultants shall suspend performance of the Agreement at the premises until a satisfactory insurance policy(ies) and certificate of insurance is provided to and approved by Risk Financing, unless the Facility or Project Manager directs the Consultant(s), in writing, to continue to performing work under the Agreement. If the Agreement is so suspended, no extension of time shall be due on account thereof.

Failure by the Consultant(s) to meet any of the insurance requirements, including the requirement that the Port Authority be afforded the full extent of the insurance obtained under the Agreement without limitation, shall be deemed a material breach of Agreement and may be a basis for termination of the Agreement by the Port Authority.

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

All insurance coverage shall be provided by the Consultant(s) and/or by or for any of its/their Sub-consultant(s) at no additional expense to the Port Authority and its related entities. A copy of this "Insurance" section shall be given to your insurance agent and Sub-consultant(s) and shall form a part of the covered Agreement for insurance purposes in furtherance of the insurance requirements of the Agreement.

ATTACHMENT E

STAFFING ANALYSIS SHEET

[HYPERLINK PROVIDED IN REQUEST FOR PROPOSAL \(RFP\) LETTER](#)

ATTACHMENT F

PRICING & COMPENSATION

[HYPERLINK PROVIDED IN REQUEST FOR PROPOSAL \(RFP\) LETTER](#)

ATTACHMENT G

**DISADVANTAGED BUSINESS ENTERPRISE
(DBE) PROGRAM**

ATTACHMENT G

REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE PORT AUTHORITY TRANS-HUDSON CORPORATION (PATH) REHABILITATION OF HOBOKEN AND NEWPORT STATIONS DURING 2019 THROUGH 2023

RFP #58432

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

A. POLICY

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

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

B. GOAL

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

DBE Participation Goal: 25 %

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

New York UCP – <https://nysucp.newnycontracts.com>

New Jersey UCP – <https://njucp.dbesystem.com/>.

In the event the successful proposer's proposed level of DBE participation is less than this prescribed level of DBE participation, to remain eligible for contract award, the successful proposer must satisfy the good faith efforts requirements set forth in paragraph I.3 below

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

Contract Number:

Name: Jacqueline Carroll

Email: jacarroll@panynj.gov Telephone No.: (201) 395-3958

Address: The Port Authority of New York & New Jersey

2 Montgomery Street, 2nd Fl. Jersey City, NJ 07302

C. **DEFINITIONS**

1. To avoid undue repetition, the following terms, as used in this Agreement, shall be construed as follows: **Bidder or Proposer** can be used interchangeably and **Consultant or Contractor** can be used interchangeably.
2. **Certification** means the process by which a business demonstrates to OBDCCR or to a New York State Unified Certification Program Certifying Partner ("NYSUCP") or to a New Jersey Unified Certification Certifying Partner ("NJUCP") that it meets the requirements to be a DBE under USDOT regulations set forth in 49 C.F.R. Part 26.
3. **Disadvantaged Business Enterprise** or DBE is a for-profit small business concern (a) that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which at least 51% of the stock is owned by one or more such individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
4. **New York State Unified Certification Program Certifying Partners** include the Port Authority of New York & New Jersey, Metropolitan Transportation Authority, the Niagara Frontier Transportation Authority and the New York State Department of Transportation.
5. **New Jersey Unified Certification Program Certifying Partners** include the Port Authority of New York & New Jersey, New Jersey Transit and the New Jersey State Department of Transportation.
6. **Socially and economically disadvantaged individual** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

- a. Any individual OBDCCR or a NYSUCP or NJUCP Certifying Partner finds to be a socially and economically disadvantaged individual on a case-by-case basis.
- b. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 1. Black Americans which includes persons having origins in any of the Black racial groups of Africa;
 2. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South America or other Spanish or Portuguese culture or origin, regardless of race;
 3. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;
 4. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 5. Subcontinent Asian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 6. Women; and
 7. Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration ("SBA"), at such time as the SBA designation becomes effective.

D. THE DBE PROGRAM

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

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

- 1. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;*
- 2. To ensure that the DBE program is narrowly tailored in accordance with 49 CFR Part 26;*
- 3. To ensure that only firms that fully meet regulatory eligibility standards as outlined in 49 CFR Part 26 are permitted to participate as DBEs;*
- 4. To help remove barriers to the participation of DBEs in USDOT-assisted contracts; and,*

5. *To assist the development of firms that can compete successfully in the market place outside the DBE program.*

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

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

E. DBE OBLIGATION

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

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

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

F. SUBMISSION OF DBE UTILIZATION PLAN

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

The proposer shall submit, with its Proposal, the DBE Participation Plan and Affirmation Statement (Appendix A2) for each DBE firm it intends to use on this Contract. The DBE Participation Plan and Affirmation Statement shall provide the name and address of each DBE firm, a description of the work to be performed, the dollar value of each DBE subcontract and the signature affirmation from each DBE firm participating in this Contract.

The bidder shall submit with its Proposal the completed Information on Solicited Firms form (Appendix A4), listing every firm that provided a quotation to the bidder for any subcontract to be performed under this Contract, whether the firms are DBE certified and whether the firms' quotes were included in the final Proposal.

1. By listing a firm on its DBE Participation Plan and Affirmation Statement (Appendix A2) the proposer is representing the following:

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

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

G. PROMPT PAYMENT AND RETAINAGE PROVISION

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

H. CREDIT TOWARD DBE GOAL

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

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

2. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a certified DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
3. Joint ventures between DBEs and non-DBEs may be counted toward the DBE goal in proportion to the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces. Please contact the Office of Business Diversity and Civil Rights at (201) 395-3958 for more information about requirements for such joint ventures.
4. OBDCCR will credit expenditures to a DBE subcontractor toward DBE goals, only if the DBE is performing a commercially useful function on the contract.
5. Commercially Useful Function
 - A. A DBE is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of work on a contract and carries out its responsibilities by actually performing, managing and supervising the work involved in accordance with normal industry practice. Regardless of whether an arrangement between the Contractor and the DBE represents standard industry practice, if the arrangement erodes the ownership, control or independence of the DBE or in any other way does not meet the commercially useful function requirement, that firm shall not be included in determining whether the DBE goal is met and shall not be included in DBE reports. If this occurs with respect to a firm identified as a DBE, the Contractor shall receive no credit toward the DBE goal and may be required to backfill the participation. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction or contract through which funds are passed in order to obtain the appearance of DBE participation. A DBE may rebut a determination by the Authority that the DBE is not performing a commercially useful function to the United States Department of Transportation (USDOT) funding agency (for example, FAA, FTA or FHWA).
 - B. Work Force. The DBE must employ a work force (including administrative and clerical staff) separate and apart from that employed by the Contractor, other subcontractors or their affiliates. This does not preclude the employment by the DBE of an individual that has been previously employed by another firm involved in the Contract, provided that the individual was independently recruited by the DBE in accordance with customary industry practice. The routine transfer of work crews from another employer to the DBE shall not be allowed.
 - C. Supervision. All Work performed by the DBE must be controlled and supervised by the DBE without duplication of supervisory personnel from the Contractor, their affiliates and other subcontractors performing Work on the Contract. This does not preclude routine communication between the supervisory personnel of the DBE and other supervisors necessary to coordinate the Work.
 - D. Equipment. DBE subcontractors may supplement their equipment by renting or leasing additional equipment in accordance with customary industry practice. If the DBE obtains equipment from the Contractor, other contractors or their affiliates, the DBE shall provide documentation to the Authority demonstrating that similar equipment and terms could

not be obtained at a lower cost from other customary sources of equipment. The required documentation shall include copies of the rental or leasing agreements, and the names, addresses, and terms quoted by other sources of equipment.

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

6. Counting DBE Participation

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

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

- A. Subcontractors. 100 percent of the value of the Work to be performed by a DBE subcontractor will be counted toward the DBE goal. The value of such Work includes the cost of materials and supplies purchased by the DBE, except the cost of supplies or equipment leased from the Contractor, other subcontractors or their affiliates will not be counted. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
- B. Manufacturers/Fabricators. 100 percent of the expenditure to a DBE manufacturer or fabricator will be counted towards the DBE goal.
- C. Material Suppliers. 60 percent of the expenditure to a DBE material supplier will be counted toward the DBE goal. Packagers, brokers, manufacturer's representatives, or other persons who arrange or expedite transactions are not material suppliers within the meaning of this paragraph.
- D. Brokers/Manufacturer's Representatives. 100 percent of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees for transportation charges for the delivery of materials or supplies provided by a DBE broker/manufacturer's representative will be counted toward the DBE goal, provided they are determined by the Authority to be reasonable and not excessive as compared with fees customarily allowed for similar services. The cost of the materials and supplies themselves will not be counted.
- E. Services. 100 percent of fees or commissions charged by a DBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of the Work will be counted toward the DBE goal, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
- F. Trucking Operations. The DBE trucking firm of record is the firm that is listed on the DBE Participation Plan. The DBE trucking firm shall own and operate at least one registered,

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

1. DBE Owned/Leased Trucks. 100% of the value of the trucking operations the DBE provides for the performance of the work using trucks it owns and trucks that are registered, insured and operated by the DBE using drivers it employs, will be counted toward the DBE goal.
2. DBE Leased Trucks. The DBE may lease trucks from another DBE, including an owner/operator who is certified as a DBE. 100% of the value of the trucking operations that the lessee DBE provides will be counted toward the DBE goal.
3. Non-DBE Trucks. The DBE may lease trucks from non-DBE firms and owner-operators. The value of these trucking services will be counted toward the DBE goal up to the value of services performed by the DBE trucks used on the Contract. DBE participation can be counted for the value of the services of non-DBE trucks that exceed the value of the services performed by DBE trucks only in the amount of the fee or commission a DBE receives as a result of the lease agreement.

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

7. If a firm is not currently certified as a DBE in accordance with 49 CFR Part 26 at the time of the execution of the Contract, OBDCR will not credit the firm's participation toward any DBE goals, except as provided for in 49 CFR Section 26.87(i).
8. When a firm loses its DBE certification, OBDCR will follow the applicable regulations in 49 CFR Section 26.87(j).
 - a. If a contract or subcontract has not been executed with the firm prior to notification of its ineligibility, any participation by the ineligible firm will not be counted toward the contract or overall goal. OBDCR will direct the Contractor to meet the contract goal with an eligible DBE firm or demonstrate good faith efforts to do so.
 - b. If a contract or subcontract has been executed with the firm prior to notification of its ineligibility, the Contractor may continue to receive credit toward its DBE goal for the firm's work.
9. OBDCR will not credit toward the DBE goal the participation of a DBE subcontractor until the amount being counted toward the goal has actually been paid to the DBE, as evidenced by submission of the Statement of Payments to DBE Subcontractors / Lessors / Suppliers and the DBE Payment Request Certification Form.

I. CONTRACT AWARD

1. Only proposers who submit proposals that meet the DBE goal or who demonstrate good faith efforts to meet the DBE goal, as herein provided will be eligible for award of the Contract.
2. If the successful proposer does not reach the DBE goal, the proposer shall nevertheless remain eligible for award of the contract if it can demonstrate to the satisfaction of OBDCR that it has made a good faith effort to meet the DBE goal. In making such a determination, OBDCR shall consider, among other things, the criteria set out in subparagraph 3 below.
3. Demonstration of Good Faith Efforts

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

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

- i. That the proposer made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services; and
- j. That the proposer effectively used the services of available minority/women community organizations; minority/women contractor's groups; local, state and federal minority/women business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs.

4. Reconsideration of Good Faith Efforts Determination

In determining whether a proposer has demonstrated good faith efforts, the Port Authority will look at all efforts that the proposer has made. If OBDCR determines that the successful proposer has failed to make good faith efforts to meet the DBE goal, that firm's submission may be deemed non-responsive. The non-responsive firm will have an opportunity for administrative reconsideration, in accordance with the Port Authority's Protest Procedures. In accordance with the Protest Procedures, as part of this reconsideration,

the proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. In accordance with the Protest

Procedures, a written decision will be sent to the proposer explaining the basis for finding that the proposer did or did not meet the goal or make adequate good faith efforts to do so.

J. DBE MODIFICATIONS

In the event that a proposer wishes to modify its DBE Participation Plan and Affirmation Statement (Appendix A2) after its submission or after a contract is awarded, the proposer then must request approval for the modification from OBDCR in writing. A proposer may not, without OBDCR's prior consent, terminate a DBE subcontractor approved under this contract and then perform the work of the contract with its own forces or those of an affiliate. A modification includes any change to items of work, material, services, subcontract value or DBE firms, which differ from those identified on the approved DBE Participation Plan and Affirmation Statement (Appendix A2). When a DBE subcontractor is terminated or fails to complete its work for any reason, the Contractor must make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts must be directed at finding other DBEs to perform at least the same amount of work under the contract as the former DBE to the extent needed to meet the contract goal. The Contractor must provide OBDCR with any and all documents and information as may be requested with respect to the modification. If OBDCR determines that the Contractor failed to make good faith efforts, the Port Authority may consider such failure a breach of contract, entitling the Port Authority to remedies provided herein, in addition to any and all other available remedies. Subsequent to Contract award, all changes to the DBE Participation Plan must be submitted via a Modified DBE Participation Plan and Affirmation Statement (Appendix A3) to the Manager for review and approval by the Authority's Office of Business Diversity and Civil Rights. For submittal of modifications to the DBE Plan, Contractors are directed to use Appendix A3, which may be downloaded at <http://www.panynj.gov/business-opportunities/pdf/PA4243.pdf>.

K. EEO/NON-DISCRIMINATION

During the performance of this Contract, the Contractor hereby agrees that no person on the ground of race, color, national origin, creed/religion, sex, age or handicap/disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the furnishing of goods or services or in the selection and retention of subcontractors and/or vendors under this Contract. Contractor shall also ascertain and comply with all applicable federal, state and local laws, ordinances, rules, regulations, and orders that pertain to equal employment opportunity, affirmative action, and non-discrimination in employment, including 49 CFR Part 26.

L. OFFICE OF THE INSPECTOR GENERAL

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

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

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

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

M. APPENDICES

1. APPENDIX A1: Professional, Technical And Advisory Services DBE Goals Statement
2. APPENDIX A2: Professional, Technical And Advisory Services DBE Participation Plan and Affirmation Statement
3. APPENDIX A3: Modified Professional, Technical And Advisory Services DBE Participation Plan and Affirmation Statement
4. APPENDIX A4: Professional, Technical And Advisory Services Information On Solicited Firm

ATTACHMENT H

PROPOSER REQUIREMENTS

Attachment H-1

Proposer Requirement A

The firm(s) must have provided design and construction support of public and/or institutional buildings of comparable size, scope, complexity and value similar to that contemplated herein, on at least three (3) multi-discipline projects within the past ten (10) years.

* Note - Duplicate form as necessary *

Reference RFP Section I – Proposer Requirements

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

Client Name/ Contracting Entity	
Contract Start Date	
Contract End Date	
Brief description of Scope of work	
Client Contact Name / Title	
Client Contact Email Address	
Client Contact Phone Number	

Client Name/ Contracting Entity	
Contract Start Date	
Contract End Date	
Brief description of Scope of work	
Client Contact Name / Title	
Client Contact Email Address	
Client Contact Phone Number	

Client Name/ Contracting Entity	
Contract Start Date	
Contract End Date	
Brief description of Scope of work	
Client Contact Name / Title	
Client Contact Email Address	
Client Contact Phone Number	

Note – Client Contact must be employee of Company

Attachment H-1

Proposer Requirement B

The firm must have developed contract documents for at least two (2) contracts of comparable size, scope, complexity and value similar to that contemplated herein.

* Note - Duplicate form as necessary *

Reference RFP Section I – Proposer Requirements

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

Client Name/ Contracting Entity	
Contract Start Date	
Contract End Date	
Brief description of Scope of work	
Client Contact Name / Title	
Client Contact Email Address	
Client Contact Phone Number	

Client Name/ Contracting Entity	
Contract Start Date	
Contract End Date	
Brief description of Scope of work	
Client Contact Name / Title	
Client Contact Email Address	
Client Contact Phone Number	

Note – Client Contact must be employee of Company

Attachment H-1

Proposer Requirement C

The proposed Project Manager must be a licensed Professional Engineer or Registered Architect in the State of New Jersey.

* Note - Duplicate form as necessary *

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

Project Manager	
P.E. License New Jersey #	

Project Manager	
Architect Licensed New Jersey #	
Certificate of Authorization*	*Please submit a copy of certificate with your proposal.

Note – Client Contact must be employee of Company

EXHIBIT I

PORT AUTHORITY STANDARD AGREEMENT

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

DATE

Lillian D. Valenti
Chief Procurement Officer

FIRM

ADDRESS

CITY, ST ZIP

Attention: CONTACT, TITLE

**SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL ARCHITECTURAL
AND ENGINEERING SERVICES FOR THE PORT AUTHORITY TRANS-
HUDSON CORPORATION (PATH) REHABILITATION OF THE
HOBOKEN AND NEWPORT STATIONS DURING 2019 THROUGH 2023**

Dear CONTACT:

1. The Port Authority of New York and New Jersey (the “Authority” or “Port Authority”) hereby offers to retain FIRM NAME (the “Consultant” or “you”) to provide the performance of expert professional architectural and engineering services for the Port Authority Trans-Hudson Corporation (PATH) rehabilitation of the Hoboken and Newport Stations (“Scope of Services” or the “Project”) as more fully set forth in Attachment A, which is attached hereto and made a part hereof.

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

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

As used herein:

“Agreement” or “Contract” mean this agreement, the documents set forth in Section 45 hereof entitled “List of Attachments and Exhibits” and, if included, any other attachments, endorsements, schedules, exhibits, or drawings, the Authority’s acceptance and any written addenda issued over the name of the Authority’s Manager, Procurement Department.

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

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

“Change Order” means a written modification to a Contract impacting the requirements set forth in the Agreement.

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

FIRM NAME

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DATE

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

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

“Port Authority of New York and New Jersey” means The Port Authority of New York and New Jersey and its subsidiaries, including Port Authority Trans Hudson Corporation (PATH).

“Project” means the PATH Rehabilitation of the Hoboken and Newport Stations.

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

3. In response to a request for specific services hereunder and prior to the performance of any such services, you shall submit, in writing, to the Authority’s Representative for approval, an estimated cost and staffing analysis of such services. You shall begin performing services under this Agreement upon your receipt of the Authority’s Representative’s written (1) approval of such cost and (2) direction to proceed. At the point at which your expenditures for such services reach such approved estimated cost, you shall not continue to render any such services. Preparation of cost estimates and staffing analysis mentioned in this Section and in Section 9 shall not be a compensable service hereunder.

4. In order to effectuate the policy of the Authority, the services provided by the Consultant shall comply with all provisions of Title 2, Part 200 of the Code of Federal Regulations (C.F.R.), the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (the “Super Circular”), and any other Federal, State, municipal, local and departmental laws, ordinances, rules, regulations, and orders which would affect or control said services as if the services were being performed for a private corporation, unless the Authority standard is more stringent, in which case the Authority standard shall be followed, or unless the Consultant shall receive a written notification to the contrary signed by the Chief Engineer, in which case the requirements of said notification shall apply. However, if there is a direct conflict between the federal Super Circular requirements and the Port Authority Procurement Guidelines, the Super Circular requirements shall prevail.

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

This Agreement is anticipated to be funded in whole or in part by United States Department of Transportation, Federal Transit Administration (“FTA”) grant funds. As a result, the Consultant agrees to comply, and will require its subconsultants to comply, with the applicable FTA requirements, special grant conditions and all other federal, state and local laws that are or may become applicable to this Agreement. The current FTA Requirements are set forth in Exhibit IA of the Agreement.

Anything to the contrary herein notwithstanding, all applicable grant requirements and all applicable federal, state and local laws shall be deemed to control in the event of a conflict with the terms of this Agreement.

5. The Consultant shall meet and consult with Authority staff as requested by the Authority's Representative in connection with any service to be performed herein. All items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Authority's Representative. The Authority's Representative may disapprove if, in his/her sole opinion, said items are not in accordance with the requirements of this Agreement 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 Authority's Representative, but the Consultant will not be compensated under any provision of this Agreement for performance of such revisions. No approval or disapproval, or omission to approve or disapprove, however, shall relieve the Consultant of its responsibility under this Agreement to furnish the requested services in accordance with an agreed upon schedule and in accordance with professional standards.

The Consultant shall not remove or replace its Program/Project Manager or any other key personnel, as identified by the Authority, without the written consent of the Authority and the Authority will not consent until the Consultant has proffered a candidate with equal credentials to that of the previous key person, acceptable to the Authority.

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

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

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

FIRM NAME

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DATE

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

- A. CONSULTANT'S FIXED FEE. For Consultant's satisfactory performance of its services and all of its obligations in connection with this Agreement, the Port Authority shall pay to the Consultant, subject to pro-rata portion thereof due to any suspension or termination of this Agreement as permitted herein, a negotiated not-to-exceed fixed fee ("Fixed Fee"), representing the Consultant's profit in the amount of \$_____. A Change Order for additional services that are within the general scope of this Agreement, result in an increase in the Consultant's Fixed Fee. Payment of the Consultant's Fixed Fee will be made as a percentage of the total labor and overhead on a monthly basis, but shall not exceed the total amount stated herein. Additionally, the Consultant's Fixed Fee shall not apply to partners, principals or temporary employees of Consultant who are engaged in the performance of services to be provided herein.
- B. DIRECT PERSONNEL COSTS. Consultant shall be reimbursed for the actual hourly rates of Consultant's full-time employees ("Personnel") for services on the Project. Attached hereto are Attachment E, Staffing Analysis Sheet, and Attachment F, Pricing and Compensation, which include a schedule of the actual hourly labor rates and titles of all Consultant's Personnel assigned to the Project that have been approved by the Port Authority, including an organizational chart showing the names and titles of all staff working on the Project.
 - 1) The Port Authority reserves the right to audit and verify the hourly rate and time billed for the services of each such employee. It is understood that such employee shall only bill time to the Project for work actually performed on the Project and shall not bill time to the Project for holidays, vacation days, sick leave, personal days, maternity, medical, or family leave, nor for any other item included in the Overhead Rate, as set forth below.
 - 2) When requesting salary or billing rate adjustments for one or more of its Personnel, the Consultant shall submit employee's name, title, current direct hourly rate or billing rate, proposed new direct hourly salary or billing rate, resulting percentage increase, effective date and reason for the requested change setting forth in detail any increased costs to the Consultant of providing the services under this Agreement which has given rise to the request for increased salary. For adjustments submitted after the Effective Date of this Agreement, it is the intention of the Port Authority to grant an increase in pay if Consultant demonstrates compliance with all of the following conditions: that an increase in salary is (a) in accordance with the program of periodic merit increases normally administered by the Port Authority; (b) warranted by increased costs of providing services under this Agreement; (c) based upon increases in salaries and billing rates which are generally applicable to all of Consultant's clients; and (d) in accordance with the Authority's salary rate increase policy for the current year for Port Authority employees possessing comparable skills and experience. If, during any

calendar year, the Port Authority limits are not available to Consultant in a timely fashion, increases falling within such limits may be approved retroactively, as appropriate. The amount of increase in salary or billing rate, if any, to be applicable under this Agreement shall, therefore, in all cases, be finally determined by the Authority's Representative, in his/her sole and absolute discretion.

- C. OVERHEAD RATE. The overhead rate of ____% ("Overhead Rate") shall be applied to the Direct Personnel Costs as permitted above. Computation of the Overhead Rate shall include, but not be limited to, the following indirect cost items: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses, overtime pay, premium pay, parking and car allowance, fringe benefits, retirement plans, union dues, contributions and assessments required by Law, and collective bargaining, and corporate expenses as otherwise allowed in compliance with 48 CFR Part 31.
1. An Overhead Rate is applicable for a one-year accounting period ("Provisional Overhead Rate"). Ninety (90) days prior to the expiration of the applicable accounting period, the Consultant shall submit one of the following: i) a current indirect cost audit (not currently under dispute) by a cognizant federal or state government agency; ii) a new calculation by the Consultant of the Overhead Rate in accordance with this Section 9.C and the Consultant shall submit to an audit of the Overhead Rate by the Authority. Should a subsequent audit rate differ from the rate set forth in this sub-section, said rate shall be adjusted by a contract modification.
 2. The Overhead Rate shall represent reimbursement to Consultant for all other costs incurred by Consultant for such Personnel provided; however, for purposes of this Section 9.C only, the term Personnel shall exclude any non-exempt personnel eligible to receive overtime pay who belong to a labor union, perform work on the Project under the terms of a collective bargaining agreement and in accordance with the Agreement, and are paid wages for such work. For the avoidance of doubt, the term "Personnel" for purposes of this Section 9.C, shall include members of a labor union who are exempt from receiving overtime pay and who render superintendent services on the Project.
 3. The Overhead Rate shall not apply to partners, principals or temporary employees of Consultant.
 4. The Consultant's actual Overhead Rate(s) during the term of this Agreement shall be subject to an audit by the Port Authority. The Authority reserves the right to retroactively adjust the Consultant's compensation in the event that a final audit of overhead indicates that the actual rate applicable during the Agreement is less than the rate(s) used during the Agreement. The Consultant is responsible for monitoring its actual rates to ensure compliance with the Provisional Overhead Rate applicable at the time.
 5. "Overhead" includes, but is not limited to, the following indirect cost items: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses, overtime pay, premium pay, parking and car allowance, fringe benefits, retirement plans, union dues, contributions and

assessments required by Law, and collective bargaining, and corporate expenses as otherwise allowed in accordance with 48 CFR Part 31.

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

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

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

1. Notwithstanding the above the Authority will pay an amount approved in advance by the Authority's Representative and computed as follows for the reproduction of submittal drawings, specifications and reports:
 - a. If the Consultant uses its own facilities to reproduce such documents, an amount computed in accordance with the billing rates the Consultant customarily charges for reproduction of such documents on agreements such as this, or
 - b. If the Consultant uses an outside vendor for the reproduction of such documents, the actual, necessary and reasonable amounts for the reproduction of such documents.
2. The expenses do not include expenses that are usually and customarily included as part of the Consultant's Overhead. For the purposes of this Agreement out-of-pocket expenses do not include amounts for mailing and delivery charges, typing, utilization of computer systems, CADD, cameras, recording or measuring devices, flashlights and other small, portable equipment, safety supplies, phones, telephone calls, electronic messaging including facsimile, emails, text messages, or expendable office supplies. Unless otherwise indicated, required insurance is not a reimbursable expense.
3. When the Consultant uses its, or its employee's, personal vehicle to provide services within the Port District, the Consultant will be reimbursed for travel expenses beyond normal commuting costs at a rate not higher than the Annual Federal Mileage Reimbursement Rate (as determined by the Internal Revenue Service) per mile traveled by auto.

4. When the Consultant is asked to provide services outside the Port District, the actual cost of transportation as well as the cost for hotel accommodations and meals will be reimbursable hereunder when approved in advance in writing by the Authority's Representative. If the Consultant chooses to travel each day to an assignment, where it would be more economical to take a hotel room near the assignment, the maximum reimbursable travel expenses shall not exceed the daily cost for meals and lodging. The cost for all meals and lodging on approved overnight trips are limited to the amounts established by the United States General Services Administration for that locality.

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

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

6. As used herein:

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

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

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

10. CHANGES

The Authority reserves the right to make changes to the Scope of Services or schedule. The Consultant shall diligently perform all such service without delay even if the Consultant does not agree with any schedule or cost decision of the Authority related to changed services. The Consultant must issue any related claim to the Authority within five (5) days of the Authority's request to perform the change. The claim will be considered by the Authority and if accepted, in whole or part, the Authority will issue a Change Order. The provisions of the Contract relating to the services and its performance shall apply without exception to any changed or additional

services required and to the performance thereof, except as may be otherwise provided by written agreement between the Authority and the Consultant. With concurrence by the Manager of Federal Procurement and Compliance or his/her designee, the Authority's Representative must authorize in writing the changed or additional services and/or any change to the amount obligated under the Contract before it is performed and before the Consultant can be reimbursed for such services.

The Consultant shall immediately notify the Authority, in writing, of any change in the Scope of Services either requested by the Authority or desired by the Consultant. Such notice shall be in the form of a Change Request and shall include the estimated hours by element of work and the applicable hourly rates, overhead, fees, other direct charges, subconsultant charges in the same detail as cost elements for the Consultant, all in accordance with Section 9, as well as any proposed schedule adjustments arising from the proposed change to the Scope of Services, if any. The parties shall negotiate in good faith the proposed changes to the Scope of Services identified in the Consultant's Change Request. The amounts that the parties agree upon shall be incorporated into the Contract by issuance of a Change Order.

The Authority reserves the right to delete any item of the services in whole or in part. Any deletion of services must be authorized in writing by the Authority's Representative. If an item of services is deleted, compensation as set forth in Section 9, shall be reduced accordingly.

11. The Authority reserves the right of approval of all personnel, amounts, rates and salaries of said personnel performing Services under this Agreement. 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 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.

12. DISPUTE RESOLUTION

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

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

All such questions or disputes under this Section shall be submitted in writing by Consultant or the Port Authority to the Chief Engineer for decision, together with all evidence and other pertinent information in regard to such question or dispute, in order that a fair and impartial decision may

be made. The other party shall have a reasonable time to respond. The Port Authority may join any other entity to the dispute that has a valid dispute resolution agreement with the Port Authority. In any action against the Port Authority relating to any such question or dispute, Consultant must allege in its complaint and prove such submission, which shall be a condition precedent to any such action. No evidence or information shall be introduced or relied upon in such an action that has not been so presented to the Chief Engineer.

13. SUBCONTRACTING

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

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

For each proposed subconsultant/subcontractor with a proposed contract value of \$100,000 or more, the Consultant shall ensure that the Background Qualification Questionnaire Package ("BQQ"), available at:

<http://www.panynj.gov/inspector-general/inspector-general-programs.html>, is completed.

For each individual, partnership or corporation proposed by the Consultant as a subconsultant, the Consultant shall submit to the Authority a certification or, if a certification cannot be made, a statement by such person, partnership or corporation to the same effect as the certification or statement required from the Consultant pursuant to the sections of this Agreement entitled "Certification of No Investigation (Criminal or Civil Anti-Trust), Indictment, Conviction, Suspension, Debarment, Disqualification, Prequalification Denial or Termination, Etc; Disclosure of Other Required Information," and "Non-Collusive Bidding and Code of Ethics Certification; Certification of No Solicitation Based on Commission, Percentage, Brokerage, Contingent Fee or Other Fee."

Subconsultants' performance on past Authority contracts will be subject to the Performance Evaluations under the section of this Agreement entitled "Performance Evaluations." The Port Authority will consider Marginal or Unsatisfactory Performance Evaluation ratings for services

performed by a subconsultant within 3 years of the submission of a request for subconsultant approval in decisions as to whether to approve a firm being proposed for use as a subconsultant.

In the event that the Chief Engineer, or his or her designee, in his or her sole discretion, finds that the Consultant has not satisfactorily demonstrated that the circumstances surrounding a subconsultant's Marginal or Unsatisfactory Performance Evaluation rating have been successfully mitigated, the Chief Engineer, or his or her designee, may determine that approval of a subconsultant is not in the best interest of the Authority and will not, in his or her sole discretion, approve the subconsultant.

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

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

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

16. TERMINATION

- A. For Cause. The Authority may at any time for cause terminate this Agreement as to any services not yet rendered, and may terminate this Agreement in whole or in part. You shall have no right of termination as to any services under this Agreement without just cause. Termination by either party shall be by certified letter addressed to the other at its address as set forth herein. Should this Agreement be terminated in whole or in part by either party as above provided, you shall receive no compensation for any services not yet performed.
- B. For Convenience. In addition to all other rights of revocation or termination hereunder and notwithstanding any other provision of this Agreement, the Port Authority may terminate this Agreement and the rights of the Consultant hereunder without cause at any time upon five (5) days written notice to the Consultant and in such event this Agreement shall cease

and expire on the date set forth in the notice of termination as fully and completely as though such date were the original expiration date hereof and if such effective date of termination is other than the last day of the month, the amount of the compensation due to the Consultant from the Port Authority shall be prorated when applicable on a daily basis. If termination is without fault on your part, the Authority shall pay you as the full compensation to which you shall be entitled in connection with this Agreement, the amounts computed as above set forth for services completed to the satisfaction of the Authority, through the date of termination, minus all prior payments to you. Such cancellation shall be without prejudice to the rights and obligations of the parties arising out of portions already performed but no allowance shall be made for anticipated profits.

17. 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 Authority's Representative, provided, however that data from manufacturers and suppliers of material shall be obtained by you when you find such data necessary, unless otherwise instructed by the Authority's Representative.

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

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

20. Mylars of the contract drawings, originals of technical specifications, estimates, reports, records, data, charts, documents, renderings, computations, computer tapes or disks, and other papers of any type whatsoever, whether in the form of writing, figures or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of the Authority, and the Authority 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 presently existing or arising 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, or subconsultant, or an

employee of either. Whether or not your Proposal is accepted by the Authority, it is agreed that all information of any nature whatsoever which is in any way connected with the services performed in connection with this Agreement, regardless of the form of which has been or may be given by you or on your behalf, whether prior or subsequent to the execution of this Agreement, to the Authority, its Commissioners, officers, agents or employees, is not given in confidence and may be used or disclosed by or on behalf of the Authority without liability of any kind, except as may arise under valid existing or pending patents, if any.

21. 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.

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

23. You shall promptly and fully inform the Authority's Representative 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.

24. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

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

25% for firms owned and controlled by socially and economically disadvantaged individuals and certified as DBEs, as approved by the Authority.

25. 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 16 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.”

26. 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 and Acknowledgments.

- 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 Section, 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.

27. 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 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, 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 Authority's Representative in writing of any patent, copyright, trade secret or other intellectual property rights or disputes, whether existing or potential, of which the Consultant has knowledge, relating to any idea, design, method, material, equipment or other matter related to this Agreement or coming to the Consultant's attention in connection with this Agreement.

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

28. 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 subsections 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 sub-sections 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 Section shall also be for the benefit of the Commissioners, Directors, Superintendents, officers, agents and employees of the Authority and/or PATH, so that they shall have all the rights which they would have under this Section 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 Section, whether or not the occasion for invoking such benefit has already arisen at the time of such cancellation.

Neither the completion of services hereunder nor the making of payment (final or otherwise) shall release the Consultant from its obligations under this Section. Moreover, neither the enumeration in this Section 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 Section or of any other Section 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 Section or in any other Section 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 sub-section D above made against said cities, the Consultant's obligation under sub-section D above shall include claims by said cities against the Authority for such indemnification.

29. 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>.

30. 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;
- 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.

31. 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;

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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 Section "31G.", 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 shall take appropriate action up to and including a finding of non-responsibility.

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

32. 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.

33. 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.

34. 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 Section in each subcontract entered into under this Agreement.

35. 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 Authority).

The Consultant shall include the provisions of this Section in each subcontract entered into under this Agreement.

36. 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 Section, 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 Section 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.

37. 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 Section in each subcontract entered into under this Agreement.

38. 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 Section 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).

39. DEFINITIONS

As used in Sections 30 to 38 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 Section entitled "Obligation to Report," above.

40. PERFORMANCE EVALUATIONS

Consultants are advised that the Authority has adopted a policy to the effect that in awarding its agreements it will consider the proposer's Marginal or Unsatisfactory performance as a prime consultant or as a subconsultant on past Authority contracts as an important factor in determining qualification for award.

The policy requires that Performance Evaluations be prepared for all consultants, contractors, subconsultants, subcontractors and construction management firms on all Port Authority construction projects, and that such Performance Evaluations will, for a three year look-back period, be considered by the Authority as a factor in the award of future contracts and as a factor in approvals of subconsultants and subcontractors. The Port Authority will not qualify, or recommend for award, any proposer that has received one or more Marginal or Unsatisfactory ratings unless, in the sole discretion of the Chief Engineer or his or her designee, the proposer has provided substantive information showing that the root cause of the adverse performance has been identified and definitively corrected or the circumstances giving rise to the Performance Evaluations have changed and will not reoccur. The determination of the Chief Engineer or his or her designee will be conclusive. By submitting a Proposal, the proposer certifies that neither it nor any of its: (i) affiliates; (ii) subsidiaries; (iii) parent company; (iv) entities of which the proposer is a substantial component; (v) entities over which the proposer exerts, or has exerted, substantial control; and/or (vi) entities which have some of the same key senior personnel as the proposer, as may be applicable, have received a rating that is less than satisfactory (e.g., received a Performance Evaluation rating of Marginal or Unsatisfactory) for performance on a Port Authority or PATH contract within the previous three years prior to submission of its Proposal. If the Proposal is being submitted by a joint venture, such certification shall be deemed to have been made by all entities comprising the joint venture. In any case where the proposer cannot make the foregoing certifications, the proposer shall so state and shall furnish with the signed Proposal a signed statement which sets forth in detail information about the relevant contract(s) and the rating(s) received. The Chief Engineer or his or her designee reserves the right to request additional information.

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

Pursuant to the policy, Performance Evaluations will be performed by the Authority for consultants, contractors, subconsultants, subcontractors and construction management firms on all Port Authority construction projects. Marginal or Unsatisfactory Performance Evaluations will be provided to the evaluated party as soon as practicable after completion of a Performance Evaluation, at which time the evaluated party will be notified that a Performance Evaluation is available for comment. The Consultant shall be afforded up to fourteen (14) days from the date of notification of availability to respond and submit comments or additional information. The Port Authority will update the Performance Evaluations with any consultant comments provided within fourteen (14) days, as well as any subsequent Port Authority review of comments received. The parties will use good faith efforts to resolve any dispute; however, the ultimate conclusion on the Performance Evaluation is a decision of the Authority.

The Consultant shall include the provisions of this clause in each subcontract entered into under this Agreement. The full text of the Performance Evaluation for Construction Contractors/Construction Managers Policy is available at <https://www.panynj.gov/business-opportunities/become-vendor.html>.

41. The entire agreement between the parties is contained herein (including all Attachments and Exhibits, as set forth in section 45 below) and no change in or modification, termination or discharge of this Agreement in any form whatsoever shall be valid or enforceable unless it is in writing and signed by the party to be charged therewith, or by his duly authorized representative, provided, however, that termination in the manner hereinbefore expressly provided shall be effective as so provided.

42. 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.

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

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

45. List of Attachment/Exhibits

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

Attachment A: Scope of Services
Attachment A-1: Authority's Limited English Proficiency (LEP) Plan 2015
Attachment B: Agreement on Terms of Discussion
Attachment D: Insurance Requirements
Attachment E: Staffing Analysis Sheet
Attachment F: Pricing and Compensation Sheet

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Attachment G: Disadvantaged Business Enterprise (DBE) Program and Appendices A1, A2 and A4	
Exhibit IA: Federal Transit Administration (FTA) Contract Provisions, including executed Certifications.	
Appendix 1:	Certification Regarding Lobbying Pursuant to 31 U.S.C. 1352
Appendix 2:	Standard Form LLL, Disclosure of Lobbying Activities
Appendix 3:	Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

46. NOTICES

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

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

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

and

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

To Consultant: ***Insert Consultant Name***
Attn:
Title:
Address:

47. Nothing in this Agreement is intended to constitute the creation of an agency relationship between the Authority and the Consultant or any other right for the Consultant to act as the representative of the Authority for any purpose whatsoever except as may be specifically provided in this Agreement. It is hereby specifically acknowledged and understood that the Consultant, in performing its services hereunder, is and shall be at all times an independent contractor and the

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DATE

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.

48. 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: _____

EXHIBIT IA (REV. 07/24/18)
FEDERAL TRANSIT ADMINISTRATION CONTRACT PROVISIONS
(FOR GRANTS DATED ON OR AFTER DECEMBER 26, 2014)

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DEFINITIONS

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

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

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

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

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

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

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

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

“Simplified Acquisition Threshold” or “SAT” means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. The Simplified Acquisition Threshold is set by the Federal Acquisition Regulation at 48 C.F.R Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908.

1. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION TERMS

This section applies to all contracts except Micro-Purchases.

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

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

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

2. FEDERAL CHANGES

This section applies to all contracts except Micro-Purchases.

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

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

3. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

This section applies to all contracts except Micro-Purchases.

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

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

4. ORGANIZATIONAL CONFLICT OF INTEREST

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

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

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

The Contractor, by submitting its bid or proposal, agrees and shall cause its subcontractors to agree, to the above stated conditions and terms and further agrees to perform all duties under the

contract and, in doing so, not to enter into contractual agreements with Authority prime contractors and first-tier subcontractors in such a way as to create an organizational conflict of interest.

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

5. LOBBYING RESTRICTIONS

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

Byrd Anti-Lobbying Amendment, 31 USC 1352 as amended by the Lobbying Disclosure Act of 1995 —“Byrd Anti-Lobbying Amendment” (31 U.S.C. 1352) — Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, “New Restrictions on Lobbying” and 2 CFR 200, Appendix II (I). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient.

6. CIVIL RIGHTS REQUIREMENT

This section applies to all contracts except Micro-Purchases.

Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C.

§ 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, and Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements FTA may issue.

Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

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

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

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

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

7. CARGO PREFERENCE - USE OF UNITED STATES FLAG VESSELS

This section applies to contracts involving equipment, materials or commodities, which may be transported by ocean vessels. These requirements do not apply to Micro-

Purchases, except for Construction contracts over \$2,000).

The Contractor agrees:

- (a) To utilize privately owned United States-flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates for United States- flag commercial vessels.
- (b) To furnish within twenty (20 working days following the date of loading for shipments originating within the United States or within thirty (30) working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a), above to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the Port Authority (through the contractor in the case of a subcontractor's bill-of-lading).
- (c) The Contractor agrees to include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

8. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

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

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

(1) *Minimum wages.* (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), shall be paid unconditionally and not

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

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

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

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(A) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC

20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

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

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

applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

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

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

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

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

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

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

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

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

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

(4) *Apprentices and trainees*—(i) *Apprentices*. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been

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

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

applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

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

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

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

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

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

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

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

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

9. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

A. Overtime Requirements

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

B. Violation; liability for unpaid wages; liquidated damages

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

C. Withholding for unpaid wages and liquidated damages

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

D. Subcontracts

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

10. VETERANS EMPLOYMENT

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

11. SEISMIC SAFETY

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

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

12. ENERGY CONSERVATION

This section applies to all contracts except Micro-Purchases.

The Contractor agrees to comply with the mandatory energy efficiency standards and policies within the applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §6321 et seq. and the National Environmental Policy Act, 42

U.S.C. §4321 et seq.. Accordingly, the Contractor agrees that the construction of any new building, or any addition, alteration or renovation of any existing building which materially increases the heating or cooling requirements for the building will comply with mandatory standards and policies relating to energy efficiency which are contained in 42 USC §6321 et seq., Article 11 of

the New York State Energy Law and in Parts 7810 to 7815 of Title 9, Subtitle BB of the New York Codes, Rules and Regulations. The Contractor shall be responsible for ensuring that lower tier contractors and subcontractors and subagreements are in compliance with these requirements.

13. CLEAN WATER REQUIREMENTS

This section applies to each contract and subcontract which exceeds the SAT.

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

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

14. CLEAN AIR REQUIREMENTS

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

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

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

15. FLY AMERICA

This section applies to certain contracts involving international transportation of persons or property, by air when the FTA will participate in the costs of such air transportation. These requirements do not apply to Micro-purchases.

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that Recipients and sub recipients of Federal funds and their contractors are required to use

U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation. The Contractor shall include the requirements of this section in all first tier subcontracts that may involve international air transportation and shall be responsible for ensuring that lower tier contractors and subcontractors are in compliance with these requirements.

16. CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

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

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

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

17. PREFERENCE FOR RECYCLED PRODUCTS

This section applies to all contracts over \$10,000 for items designated by the EPA.

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource

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

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

This section applies to all contracts except Micro-Purchases.

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

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

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

19. TRANSIT EMPLOYEE PROTECTIVE REQUIREMENTS

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

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

- General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry

out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29

C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA

applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1.), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

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

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

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

20. ADA ACCESS REQUIREMENTS

Facilities to be used in public transportation service must comply with 42 U.S.C. Sections 12101 *et seq.* and with DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR Part 37; and Joint ATBCB/DOT regulations, “Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR Part 1192 and 49 CFR Part 38.

21. BUY AMERICA

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

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

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

22. AUTHORITY OF CHIEF ENGINEER - BREACHES AND DISPUTE RESOLUTION

Inasmuch as the public interest requires that the project to which this Contract relates shall be performed in the manner which the Port Authority, acting through the Chief Engineer (or his/her designee), deems best, the Chief Engineer (or his/her designee) shall have absolute authority to determine what is or is not necessary or proper for or incidental to the portion

thereof specified in the clause(s) hereof setting out the Work and any Scope of Work, Contract Drawings and/or Specifications, as applicable shall be deemed merely his/her present determination on this point. In the exercise of this authority, he/she shall have power to alter the Scope of Work, Contract Drawings and/or Specifications as may be applicable; to require the performance of Work not required by them in their present form, even though of a totally different character from that now required; and to vary, increase and diminish the character, quantity and quality of, or to countermand, any Work now or hereafter required. Such variation, increase, diminution or countermanding need not be based on necessity but may be based on convenience.

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

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

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

This numbered clause shall be governed by and construed in accordance with the law of the

State of New York, without giving effect to its choice of law provisions.

Performance During Dispute – Unless otherwise directed by the Port Authority, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

23. NON-CONSTRUCTION EMPLOYEE PROTECTION CLAUSE

The Contractor agrees to comply with and assures compliance with any applicable employee protection requirements for non-construction employees of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 et seq., in particular with the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and with implementing U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. Part 5.

24. CERTIFICATION - DEBARMENT AND SUSPENSION

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

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

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

By signing and submitting its Bid, the Contractor certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Port Authority of New York and New Jersey. If it is later determined that the proposer knowingly rendered an

erroneous certification, in addition to remedies available to the Port Authority of New York and New Jersey, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C and 2 CFR 200, Appendix II (H) while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- FTA requires that the Contractor, for major third party contracts, complete a certification entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion" for himself and his principals and requires each subcontractor or supplier (for subcontracts and supplier agreements expected to equal or exceed \$25,000) to complete a certification entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tiered Covered Transactions" for himself and his principals. Copies of the required Certification forms and accompanying instructions are set forth following the clause herein entitled "Integrity Monitor".
- In the event that the Contractor has certified prior to award that he is not proposed for debarment, debarred, suspended, or voluntarily excluded from covered transactions by any Federal Department or agency and such certification is found to be false, this Contract may be canceled, terminated or suspended by the Authority and the Contractor will be liable for any and all damages incurred by the Authority because of such cancellation, termination or suspension because of such false certification.
- The Contractor shall obtain certifications from all known potential subcontractors and suppliers (for which payments are expected to equal or exceed \$25,000) and submit such certifications to the address set forth in E below.
- Prior to the award of any subcontracts or supplier agreements expected to equal or exceed \$25,000, regardless of tier, any prospective subcontractor or supplier who has not previously submitted a certification for this Contract must execute and submit to the Contractor a certification in the form set forth following the clause herein entitled "Integrity Monitor" which will be deemed a part of the resulting subcontract and supplier agreement.
- The originals of any Certifications or correspondence relating hereto shall be sent by the Contractor to the Chief Procurement Officer, 4 World Trade Center, 150 Greenwich Street – 21st Floor, New York, NY 10007.
- The Contractor shall not knowingly enter into any subcontracts or supplier agreements with a person that is proposed for debarment, debarred, suspended, declared ineligible or voluntarily excluded from covered transactions.

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

25. ACCESS TO RECORDS AND REPORTS

This section applies to all contracts except Micro-Purchases.

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

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

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

This requirement is independent of the Authority's requirements for record retention contained elsewhere in the specifications.

CERTIFICATION REGARDING LOBBYING PURSUANT TO 31 U.S.C. 1352
(TO BE SUBMITTED WITH EACH BID OR OFFER EXCEEDING \$100,000)

I, the undersigned

(name of authorized officer) certify,
to the best of my knowledge and belief, that:

- No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying, Activities" in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Note: Pursuant to 31 U.S.C § 1352(c)(I)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.

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

Executed this day _____ of _____, 201

By: _____
Signature of Authorized Official

Official Name and Title of Authorized Official

STANDARD FORM LLL - DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Type of Federal Action: _____ a. contract _____ b. grant _____ c. cooperative agreement _____ d. loan _____ e. loan guarantee _____ f. loan insurance	2. Status of Federal Action: _____ a. bid/offer/application _____ b. initial award _____ c. post award	3. Report Type: _____ a. initial filing _____ b. material change For material change only: Year _____ quarter _____ Date of last report _____
4. Name and Address of Reporting Entity: _____ Prime _____ Subawardee Tier _____, if known: Congressional District, if known:		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services (including address if different from No. 10a) <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward Recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal Recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding

the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
AND VOLUNTARY EXCLUSION - LOWER TIER COVERED
TRANSACTIONS**

1. The prospective lower tier participant,

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

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

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

Executed this day _____ of _____, 201_____.

BY SIGNATURE OF AUTHORIZED OFFICIAL

NAME AND TITLE OF AUTHORIZED OFFICIAL

**INSTRUCTIONS FOR COMPLETION OF CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY
EXCLUSION - LOWER TIER COVERED TRANSACTIONS**

1. By signing and submitting this Proposal, the prospective lower tier participant is providing the signed certification set out on the previous page.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Authority may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the Authority if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. The Proposer may contact the Procurement Representative for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the Authority.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under sub-paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the Authority may pursue all available remedies including suspension and/or debarment.

END OF FTA CONTRACT PROVISIONS

THE PORT AUTHORITY OF NY & NJ
OFFICE OF BUSINESS DIVERSITY AND CIVIL RIGHTS

APPENDIX A1: PROFESSIONAL, TECHNICAL AND ADVISORY SERVICES PA 3749E / 3-16
DBE GOALS STATEMENT

The undersigned Proposer has satisfied the requirements of the Agreement in the following manner (Complete the appropriate spaces and check one box):

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

OR

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

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

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

Signature _____ Title _____ Date _____

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

ACKNOWLEDGMENT BY NOTARY PUBLIC

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

STATE OF _____)
)ss:
COUNTY OF _____)

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

Name of Notary (print) _____

(Affix Notary Stamp Here)

My Commission Expires _____

(Notary Signature)

(Date)

**APPENDIX A2: PROFESSIONAL, TECHNICAL AND ADVISORY SERVICES
DBE PARTICIPATION PLAN AND AFFIRMATION STATEMENT**

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

RFP NUMBER AND TITLE: _____

PROPOSER:

Name of Firm: _____

Address: _____ Telephone: _____

Email Address: _____

DBE:

Name of Firm: _____

Address: _____ Telephone: _____

Description of services to be performed by DBE: _____

Calculation (supply only): _____

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

AFFIRMATION

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

By: _____ Date: _____

Signature of Principal or Officer of DBE – Print Name and Title

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

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

Signature _____ Title _____ Date _____

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

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

ACKNOWLEDGMENT BY NOTARY PUBLIC

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

STATE OF _____)

S.S.:

COUNTY OF _____)

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

Name of Notary (print) _____

(Affix Notary Stamp Here)

My Commission Expires _____

(Notary Signature)

(Date)

APPENDIX A4: PROFESSIONAL , TECHNICAL AND ADVISORY SERVICES INFORMATION ON SOLICITED FIRMS PA 3749G / 06-16

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

Name of Firm	Address of Firm	Phone Number	Contact Person	Firm Age	Annual Gross Revenue Range NOTE: See Footnote Below	DBE Certified (Yes/No)

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

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

Signature _____ Title _____ Date _____

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

ACKNOWLEDGMENT BY NOTARY PUBLIC

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

STATE OF _____)

S.S.:

COUNTY OF _____)

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

Name of Notary (print) _____

(Affix Notary Stamp Here)

My Commission Expires _____

(Notary Signature)

(Date)