

ATTACHMENT F – INSURANCE REQUIREMENTS

REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL SERVICES FOR THE NEW JERSEY MARINE TERMINAL REHABILITATION OF FIRE PROTECTION SYSTEMS STAGE III-DESIGN/CONTRACT DOCUMENTS AND STAGE IV-POST AWARD SERVICES DURING 2023 THROUGH 2027 (RFP# 6000001647)

INSURANCE PROCURED BY THE CONTRACTOR - CITS01-2023-0294

The Contractor and its subcontractor(s) shall take out, maintain, and pay the premiums on insurance coverages required below, for the life of the Contract. General Liability Insurance shall be written on an ISO occurrence form CG 00 01 0413 or its equivalent covering the obligations assumed by the Contractor under this Contract, and including but not limited to premises-operations, products, completed operations, and independent contractors' coverage, with contractual liability language covering the obligations assumed by the Contractor under this Contract.

Commercial General Liability Insurance - \$2 million each occurrence for bodily injury and property damage liability.

Commercial Automobile Liability Insurance - \$2 million per accident for bodily injury and property damage liability covering any auto, owned, non-owned, rented or hired automobiles.

Workers' Compensation and Employers Liability Insurance – Statutory limits in accordance with the requirements of law in the state(s) where work will take place, and Employer's Liability Insurance of not less than \$1 million for each accident, \$1 million for bodily injury by disease for each employee, and at least a \$1 million policy limit.

Cyber Liability Insurance (if applicable) - \$2 million per occurrence or claim, \$2 million aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

Professional Liability Insurance - The Consultant/Contractor shall bind, maintain, and pay premiums on Professional Liability Insurance in limits of not less than \$2 million per claim, covering acts, errors, or omissions arising out of the work or services performed by Consultant/Contractor. All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on a claims-made basis with a minimum of a 3-year reporting/discovery period.

Sub-Consultants/sub-Contractors performing architectural and engineering services, including civil, environmental, electrical, and mechanical design or engineering, shall bind, maintain, and pay premiums on Professional Liability Insurance in limits of \$5 million per claim, covering acts, errors, or omissions arising out of the work or services performed by the sub-Consultant/sub-Contractor, or any person employed by the sub-Consultant/sub-Contractor. All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on a claims-made basis with a minimum of a 3-year reporting/discovery period.

Sub-Consultants/sub-Contractors performing construction and project/program management services, including surveying, quality assurance, lab testing, inspections, and scheduling and field engineers, shall bind, maintain, and pay premiums on Professional Liability Insurance in limits of \$2 million per claim, covering acts, errors, or omissions arising out of the work or services performed by the sub-Consultant/sub-Contractor, or any person employed by the sub-Consultant/sub-Contractor. All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on a claims-made basis.

Sub-Consultants/sub-Contractors performing non-technical back-office or administrative functions only, including support staffing, secretarial/clerical staffing, document control, and scheduling services, shall not be required to maintain Professional Liability Insurance.

The liability insurance “other than professional” 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 shall provide and encompass at least the following coverages:

Coverage for explosion, collapse and underground property damage (XCU) is not excluded; The insurance coverage (including primary, excess and/or umbrella) hereinafter afforded by the Contractor and all subcontractor(s) shall be primary insurance and non-contributory with respect to insurance purchased by the additional insureds; Excess/umbrella policies shall “**follow form**” to the underlying policy; Excess/umbrella policies shall have a liberalization clause and a drop down provision; To the extent any coverage the Contractor and subcontractor(s) obtains and/or maintains under this Contract contains “Other Insurance” language or provisions, such 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, unless forbidden 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 Contractor and/or its subcontractors obtains and/or maintains insurance in an amount greater than the minimum limits required under this Contract, then the full limits of that insurance coverage will be available to respond to any claim asserted against the additional insureds that arises out of or is in any way connected with this Contract; Additional insureds coverage shall not be restricted to vicarious liability unless required by controlling law.

In addition, the additional insured provisions for the general liability and umbrella liability policy(ies) shall be written on a form at least as broad as ISO Form CG 20 10 04 13 (for ongoing operations work) together with ISO Form CG 20 37 04 13 (for completed operations work) endorsed to also include as an additional insured: **“The Port Authority of New York and New Jersey and its related entities, including Port Authority Trans Hudson Corporation, (PATH), their Commissioners, Directors, Superintendents, officers, partners, employees, agents, their affiliates, successors or assigns”** as Additional 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). The “Additional 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 on the Commercial General Liability Policy. Such additional insureds status shall be provided regardless of privity of contract between the parties. The liability policy(ies) and certificates of insurance shall contain separation of insured or Severability of Interests clauses 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 Contractor is responsible for all deductibles and losses not covered by commercially procured insurance. Any portion of the coverage to be provided under a Self-Insured Retention (SIR) of the Contractor is subject to prior review and approval of the General Manager, Risk Finance. If any part of the insurance is self-insured, Contractor and its subcontractors agrees to treat all losses within the self-insured retention as though commercial insurance is in place, including providing defense to the Additional Insured. Furthermore, any insurance or self-insurance maintained by the additional insureds shall not contribute to any loss or claim.

If any of the Work is to be done on or at Port Authority facilities by subcontractors and, if the Contractor requires its subcontractors to procure and maintain such insurance in the name of the Contractor, 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 known as “Insurance Procured by the Contractor”. All insurance coverage shall be provided by the Contractor and/or by or for any of its subcontractors at no additional expense to the Port Authority and its related entities. A copy of this section titled “Insurance Procured by the Contractor” shall be given to your insurance agent and subcontractors and shall form a part of the covered contract or subcontract for insurance purposes in furtherance of the insurance requirements under this Contract.

Further, it is the Contractor's responsibility to maintain, enforce and ensure that the type of coverages and all limits maintained by it and any of all subcontractors are accurate, adequate and in compliance with the Port Authority requirements; and the Contractor is to retain a copy of its subcontractors' certificates of insurance. All certificates of insurance shall be turned over to the Port Authority prior to the start of work, including subcontractors' work, and upon completion of the Contract. ***The contractor, its subcontractors and its insurers 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 any court, tribunal, agency, special district, commission or other authority exercising judicial or regulatory functions over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, directors, officers, agents or employees, their affiliates, successors and/or assigns, the governmental nature of the Port Authority or the provision of any statutes respecting suits against the Port Authority. The Port Authority is an intended third-party beneficiary of the agreement between the Contractor, and each of its respective subcontractors and insurers, with the direct right to enforce the agreement with respect to this provision.*** 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 Port Authority Att: Facility Contract Administrator, 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 Contract, change or modify the limits and coverages of insurance. Within five (5) days after the award of this Contract and prior to the start of any work, the Contractor must submit an original certificate of insurance to the Port Authority Facility Contract Administrator, 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 cancellation notice endorsement, and state the contract number prior to the start of work. The Contractor is also responsible for maintaining and conforming to all insurance requirements from the additional insureds and their successors or assigns. The General Manager, Risk Finance must approve the certificate(s) of insurance before any work can begin. Upon request by the Port Authority, the Contractor shall furnish to the General Manager, Risk Finance, a certified copy of each policy, including the premiums.

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

Initial certificates should be submitted to the Port Authority Contract Administrator, Renewal certificates of insurance or policies shall be emailed to certificates-portauthority@riskworks.com, 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 Finance must approve the renewal certificate(s) of insurance before work can resume on the facility. If at any time any of the certificates or policies shall become unsatisfactory to the Port Authority, the Contractor shall promptly obtain a new and satisfactory certificate and policy and provide same to the Port Authority. Failure by the Contractor to meet any of the insurance requirements, including the requirement that the Port Authority be afforded the full extent of the insurance obtained under this Contract without limitation, shall be deemed a material breach of contract and may be a basis for termination of this Contract by the Port Authority.

The requirements for insurance procured by the Contractor and subcontractor(s) shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Contractor or its liability under this Contract. The insurance requirements are not a representation by the Port Authority as to the adequacy of the insurance necessary to protect the Contractor against the obligations imposed on it by law or by this or any other contract.