

Torres Rojas, Genara

FOI #13343

From: wschulte@easternenvironmental.org
Sent: Tuesday, July 17, 2012 3:13 PM
To: Duffy, Daniel
Cc: Torres Rojas, Genara; Van Duyne, Sheree
Subject: Freedom of Information Online Request Form

Information:

First Name: William
Last Name: Schulte
Company: Eastern Environmental Law Center
Mailing Address 1: 744 Broad Street
Mailing Address 2: Suite 1525
City: Newark
State: NJ
Zip Code: 07102
Email Address: wschulte@easternenvironmental.org
Phone: 9734241485
Required copies of the records: Yes

List of specific record(s):

1 The Request for Proposals RFP issued by Port Authority on or around June 22, 2010 seeking a consultant to assist with the environmental regulatory review associated with the Bayonne Bridge Navigational Clearance Program. The RFP is referred to in Port Authority Press Release 40-2010. It appears that the RFP is no longer available on Port Authority's website. 2 The contract that was awarded pursuant to the above referenced RFP.

THE PORT AUTHORITY OF NY & NJ

Daniel D. Duffy
FOI Administrator

July 31, 2012

Mr. William Schulte
Eastern Environmental Law Center
744 Broad Street, Suite 1525
Newark, NJ 07102

Re: Freedom of Information Reference No. 13343

Dear Mr. Schulte:

This is a response to your July 17, 2012 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for copies of the Request for Proposal issued by the Port Authority on or around June 22, 2010 seeking a consultant to assist with the environmental regulatory review associated with the Bayonne Bridge Navigational Clearance Program and a copy of the contract.

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/13343-C.pdf>. Paper copies of the available records are available upon request.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Daniel D. Duffy
FOI Administrator



THE PORT AUTHORITY OF NY & NJ

One Madison Avenue
New York, NY 10010

June 22, 2010

SUBJECT: REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL ENVIRONMENTAL BEST PRACTICES ASSESSMENT SERVICES FOR THE BAYONNE BRIDGE ON AN AS-NEEDED BASIS (RFP #21601)

Dear Sir or Madam:

The Port Authority of New York and New Jersey, hereinafter referred to as the "Authority," hereby invites your Proposal for providing expert professional environmental best practices assessment services on an "as-needed" basis, as more fully set forth in Attachment A, attached hereto and made a part hereof. At its discretion, the Authority may retain multiple firms for performance of the subject services.

Also attached hereto is a copy of an Authority Standard Agreement ("Agreement"), which should be carefully reviewed by you as it is the form of agreement that the Authority intends that you sign in the event of acceptance of your Proposal and that forms the basis for the submission of Proposals. You should therefore not make any changes in this Agreement, nor restate any of its provisions in your Proposal or supporting material. The scope of the tasks for performance of the subject services are set forth in Attachment A.

I. PROPOSER REQUIREMENT

The Authority will consider only those firms who are able to meet and document (in the order listed below) each of the following qualification requirements:

1. The Proposer shall have had at least five (5) years of continuous experience immediately prior to the date of the submission of its Proposal in providing Environmental and Regulatory Review Planning and Programming Services. The Proposer may fulfill this prerequisite if it can demonstrate that the persons or entities owning and controlling the Proposer have had a cumulative total of at least the same number of years immediately prior to the submission of its Proposal in the continuous management and operation of an entity actually engaged in providing these services to state agencies or authorities under contract, or has owned and controlled other entities which meet the requirement.
2. During the time period stated in (1) above, the Proposer shall demonstrate satisfactory performance of at least one contract for Environmental and Regulatory Review Planning and Programming Services for at least \$500,000.

If submitting as a common law joint venture, at least one member must meet the forgoing requirements.

A determination that a Proposer meets this requirement is no assurance that the Proposer will be selected for performance of the subject services. Firms that do not meet this requirement shall not be further considered.

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 of no more than ten (10) pages (double-sided using 12 point or greater font size), not including resumes. This limit does not include Section III, items: A, B, E, H, I and J, below. Each resume shall be two-page maximum, Double-sided using 12 point or greater front size. The Proposal pages shall be numbered and bound, or in a 3-ring binder, with "Your Firm Name," and **RFP Number 21601** clearly indicated on the cover.
- B. Each section of the Proposal shall be separated with a tab divider that is labeled in accordance with the letter of the requirements specified below in Section 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, One Madison Avenue, 7th Floor, New York, NY 10010, **Attention: RFP Custodian**. Do not address your Proposal to any other name. You are requested to submit one (1) reproducible original and eight (8) copies, along with one (1) compact disc copy, of your Proposal for review. In case of conflict, the reproducible original of the Proposal shall take precedence over material on the compact disc.
- D. In each submission to the Authority, including any return address label, information on the compact disc and information on the reproducible original and copies of the Proposal, the Proposer shall use its **FULL LEGAL NAME WITHOUT ABBREVIATIONS**. Failure to comply with this requirement may lead to delays in agreement award and agreement payments, which shall be the responsibility of the Proposer.
- E. Your Proposals should be forwarded in sufficient time so that the Authority receives them **no later than 2:00 p.m. on July 14, 2010**. The cover of your submittal must include the RFP Number (as stated above) and the RFP title. The Authority assumes no responsibility for delays caused by any delivery services.
- F. If your Proposal is to be delivered by messenger, please note that only individuals with proper identification (e.g. photo identification) will be permitted access to the Authority's offices. Messengers without proper identification will be turned away and their packages not accepted.

III. SUBMISSION REQUIREMENTS:

To respond to this RFP, provide the following information:

- A. In the front of your Proposal, a copy of Attachment B (Agreement on Terms of Discussion), signed by an officer of your company.
- B. Complete a copy of Attachment C (Company Profile).
- C. Qualifications and Experience of Staff:

List the name(s), title(s) and resumes of personnel who will be assigned to perform any services requested. Identify subconsultants, if any, and indicate their experience and qualifications.

D. Specific relevant experience of your firm.

This shall include, but not be limited to, a list of entities for which similar services have been provided. Provide a description of the assignments, firm names, start and end dates, total cost of the assignment, and a contact (name, telephone number and email address) as required for the Authority to confirm said information. The preferred consultant will have experience with major bridge projects using a design-build (finance) approach, federal funding procurement and demonstrated success in expediting large-scale, multi-disciplined projects with expected environmental and public outreach based review processes.

E. Complete a copy of Attachment D, (Billing Rate Sheet), including job titles for technical personnel and partners or principals assigned to perform the required services. Include any anticipatable direct expenses.

The "multiplier" referred to in the first line of subparagraph 8.A of the accompanying Agreement including a breakdown of said multiplier, indicating all of its components (e.g.: vacation, holiday, sick pay, worker's compensation, office rent, insurance, profit) for all work performed at the Consultant's office.

If proposing the use of subconsultant(s), provide the terms and conditions for their compensation (including their multiplier, and/or billing rates as appropriate), their MBE/WBE status and the technical qualifications of their key personnel to be assigned to the subject project.

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

G. A detailed description of the proposed management approach to be taken for the performance of the required services. Factors addressed in your management approach shall include, but are not limited to the following: your proposed organizational structure to be responsive to the Authority's needs; your proposed approach and schedule for keeping the Authority appraised of the project status; and your proposed approach to ensuring the quality of the work product to be produced.

Your attention is directed to Paragraph 20 of the Agreement in which the Authority has stated the goals for Minority/Women-owned Business Enterprise (M/WBE) participation in this project. Submit details on how you intend to meet these goals. A listing of certified MBE/WBE firms will be provided upon request.

H. A complete list of your firm's affiliates.

I. If the Proposer or any employee, agent or subcontractor of the Proposer may have, or may give the appearance of a possible conflict of interest, the Proposer shall include in its Proposal a statement indicating the nature of the conflict. The Authority reserves the right to disqualify the Proposer if, in its sole discretion, any interest disclosed from any

source could create, or give the appearance of, a conflict of interest. The Authority's determination regarding any question(s) of conflict of interest shall be final.

- J. The Proposer is expected to agree with the form of agreement and its terms and conditions. The Proposer should therefore not make any changes in the Agreement nor restate any of its provisions in your Proposal or supporting material. ***However, if the Proposer has any specific exceptions, such exceptions should be set forth in a separate letter included with its response to this RFP.*** The Authority is under no obligation to entertain or accept any such specific exceptions. Failure to raise issues at the time of Proposal submission shall preclude the raising of such issues at a later time.

IV. SELECTION PROCESS:

The review, rating and ranking of Proposals shall first be based upon the technical qualifications as indicated below. The qualifications based selection shall take into consideration the technical qualifications presented, and subsequently cost, as appropriate. After consideration of these factors the Authority may enter into negotiations with the firm (or firms) deemed best qualified in terms of the forgoing factors to perform the required services.

The technical evaluation shall include consideration of the following factors listed in order of importance:

- A. qualifications and experience of the firm;
- B. qualifications and experience of the staff, including subconsultants, performing services hereunder;
- C. technical approach for the performance of the contemplated services; and
- D. management approach for the performance of the contemplated services

V. ORAL PRESENTATIONS:

After review of all Proposal submissions, an oral presentation to the selection committee and others, as appropriate, may be requested. It should be noted that firms selected to make presentations may be given short advance notice. Presentations would be limited to 30 minutes, and include the material contained in your Proposal. The presentation would be followed by an approximate 30-minute question and answer session. Proposer's staff providing the presentation shall be led by the proposed Project Manager, who may be supported by no more than two (2) other senior staff members proposed to work on this project. Notification of presentation scheduling is made by email. Please provide the name and email address of the person who should be contacted for presentation scheduling as well as an alternate in the event that person is unavailable.

VI. ADDITIONAL INFORMATION:

If your firm is selected for performance of the subject services, the agreement you will be asked to sign, at that time, will include clauses entitled "Certification of No Investigation (Criminal Or Civil Anti-Trust), Indictment, Conviction, Debarment, Suspension, Disqualification and Disclosure Of Other Information" And "Non-Collusive Proposing And Code Of Ethics Certification; Certification Of No Solicitation Based On Commission, Percentage, Brokerage, Contingent Or Other Fees." By submitting a Proposal the Consultant shall be deemed to have made the certifications contained therein unless said

Consultant submits a statement with 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 contractors, affiliates, subcontractors and subcontractors' affiliates register with the New York State Department of Taxation and Finance for the purpose of collection and remittance of sales and use taxes. Similarly, New Jersey requires business organizations to obtain appropriate Business Registration Certificates from the Division of Revenue of the State's Department of the Treasury.

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

Should you have any questions, please contact David Gutiérrez, Procurement Contracts Manager, by email at david.gutierrez@panynj.gov. All such emails must have "RFP 21601" in the subject line. The Authority must receive all questions no later than 2:00 P.M. on July 7, 2010. Neither Mr. Gutiérrez nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate.

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

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

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

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/DoingBusinessWith/contractors/html/other_info.html. Also, Proposers are encouraged to periodically access the Authority website at http://www.panynj.gov/DoingBusinessWith/contractors/html/current.php#prof_ad for RFP updates and addenda.

Sincerely yours,

Tim Volonakis
Manager
Professional, Technical and Advisory Services Division
Procurement Department

Attachments

P.A. Agreement #*-10-*****

DATE

FIRM NAME

ADDRESS

CITY, STATE ZIP

Attention: CONTACT, TITLE

**SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL ENVIRONMENTAL
BEST PRACTICES ASSESSMENT SERVICES FOR THE BAYONNE
BRIDGE ON AN AS-NEEDED BASIS**

Dear Contact:

1. The Port Authority of New York and New Jersey (hereinafter referred to as the "Authority") hereby offers to retain <FIRM NAME> (hereinafter referred to as "the Consultant" or "you") to provide expert professional environmental best practices assessment services for the Bayonne Bridge on an "As Needed" basis, 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.

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

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

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

4. In response to a request for specific services hereunder and prior to the performance of any such services, you shall submit in writing to the Director for approval an estimated cost and staffing analysis of such services to the Authority. Approval of such cost and direction from the Director in writing to proceed shall effectuate the performance of services under this Agreement. After the point at which your expenditures for such services reach such approved estimated cost, you shall not continue to render any such services unless you are specifically authorized in writing to so continue by the Director and you shall submit to her for approval a revised written

estimated cost of such services. If no such authorization is issued, the performance of the specifically requested services under 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 an amount equal to the approved estimated cost. Preparation of the cost estimate and staffing analysis mentioned in the first sentence of this paragraph shall not be a compensable service hereunder.

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

6. The Consultant shall meet and consult with Authority staff as requested by the Director in connection with the services to be performed herein. All items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Director. The Director may disapprove, if in her sole opinion said items are not in accordance with the requirements of this Agreement, sound engineering principles, or professional standards, or are impractical, uneconomical, or unsuited in any way for the purpose for which the contemplated services 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 Director, but the Consultant shall not be compensated under any provision of this Agreement for performance of such revisions. No approval or disapproval or omission to approve or disapprove, however, shall relieve the Consultant of its responsibility under this Agreement to furnish the requested services in accordance with an agreed upon schedule and in accordance with professional standards.

7. You shall not continue to render services under this Agreement after the point at which the total amount to be paid to you hereunder 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 Director. If no such authorization is issued, this Agreement shall be terminated without further obligation by either of the parties as to services not yet performed, but you shall be compensated as hereinafter provided for services already completed.

8. As full compensation for all your services and obligations in connection with this Agreement, the Authority will pay you the total of the amounts computed under subparagraphs A, B, C, and D below, subject to the limits on compensation and provisions set forth in paragraph 4 and 6 above. Subject to the terms and conditions below, travel time is not reimbursable under subparagraphs A, B, and C hereunder.

A. The Consultant shall be compensated at an amount equal to *.* times the actual salaries paid by you to professional and technical personnel (but not to partners or principals) for time actually spent by them in the performance of services hereunder; plus an amount equal to the number of hours actually spent by partners and principals in the performance of services hereunder times the billing rate (no multiplier applied) described below but in each case excluding premium payments for overtime work or night work or for performing hazardous duty. Attached hereto is a schedule of actual salaries and titles of architects, engineers, technical staff or other permanent professional and technical personnel employed by you, as well as rates customarily billed for partners and principals on projects such as this. Said staffing schedule shall clearly indicate any of your employees, proposed by you to perform the requested services, that are former Authority employees. For compensation purposes under this Agreement, no said salary or amount shall exceed the salary or amount received by said personnel or rate customarily billed for a partner or principal as of the effective date of this Agreement unless the Director has been notified in advance, in writing, of the increased salary, rate or amount and approves the increase.

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

Notwithstanding the above, the multiplier set forth in the first line of this subparagraph shall be applied only in the case of personnel other than partners or principals who are permanent employees.

B. An amount equal to the premium payments for overtime work or night work or for performing hazardous duty, actually paid to professional and technical employees, but not partners or principals, for time actually spent by them in the performance of services hereunder when such overtime or other premium payments have been demonstrated to be in accordance

with the Consultant's normal business practice and have been authorized in advance by the Director in writing. The Project Manager for the Authority shall have the right to authorize and approve premium payments up to a total amount of \$1,000 per occasion. Payments above said total amount shall be subject to the prior written authorization of the Director. Such premium payments to supervisory employees, who do not receive such payments in the Consultant's normal business practice, shall not be given under this Agreement.

C. An amount equal to the amounts actually paid to subconsultants hereunder who have been retained after the written approval by the Director of the subconsultant and the compensation to be paid the subconsultant. The Consultant shall submit a copy of the terms and conditions of the subconsultant's compensation (including multiplier, if applicable), as well as an estimate of the number of hours required by the subconsultant to perform its services, as part of any request for approval of the subconsultant.

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

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

1) 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

2) 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.

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

When the Consultant uses a personal vehicle to provide services within the Port District, the Consultant shall be reimbursed for travel expenses beyond normal commuting costs at a rate not higher than the Annual Federal Mileage Reimbursement Rate (as determined by the Internal Revenue Services) per mile traveled by auto.

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 shall be reimbursable hereunder when approved in advance in writing by the Director. The cost for all meals and lodging on approved overnight trips are limited to the amounts established by the United States General Services Administration for that locality.

General Services Administration (GSA) Rates:

Domestic Rates:

http://www.gsa.gov/Portal/gsa/ep/contentView.do?programId=9704&channelId=-15943&oid=16365&contentId=17943&pageTypeId=8203&contentType=GSA_BASIC&programPage=%2Fep%2Fprogram%2FgsaBasic.jsp&P=MTT

You shall obtain the Director'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 provide said receipts with the appropriate billing.

E. As used herein:

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

"Salaries paid to employees" or words of similar import shall mean salaries and amounts actually paid (excluding payments or factors for holidays, vacations, sick time, bonuses, profit participations and other similar payments) to 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 that 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 multiplier and billing rates referred to in subparagraph A above.

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

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

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

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

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

13. Under no circumstances shall you or your subconsultants communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the services to be performed hereunder except upon prior written approval and instructions of the Director, provided, however that data from manufacturers and suppliers of material shall be obtained by you when you find such data necessary unless otherwise instructed by the Director.

14. Any services performed for the benefit of the Authority at any time by you or on your behalf, even though in addition to those described herein, even if expressly and duly authorized by the Authority, shall be deemed to be rendered under and subject to this Agreement (unless referable to another express written, duly executed agreement by the same parties), whether such

additional services are performed prior to, during or subsequent to the services described herein, and no rights or obligations shall arise out of such additional services.

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

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

17. 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 shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make, have made, and use, either itself or by anyone on its behalf, such subject matter in connection with any activity now or hereafter engaged in or permitted by the Authority. Promptly upon request by the Authority, the Consultant shall furnish or obtain from the appropriate person a form of license satisfactory to the Authority, but it is expressly understood and agreed that, as between the Authority and the Consultant the license herein provided for shall nevertheless arise for the benefit of the Authority immediately upon the production of said subject matter, and shall not await formal exemplification in a written license agreement as provided for above. Such

license agreement may be transferred by the Authority to its successors, immediate or otherwise, in the operation or ownership of any real or personal property now or hereafter owned or operated by the Authority but such license shall not be otherwise transferable.

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

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

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

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

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

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

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

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

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

To be "certified" a firm must be certified by the Authority's Office of Business and Job Opportunity.

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

The Authority has a list of certified MBE/WBE service firms which is available to you at your request. The Consultant will be required to submit to the Authority's Office of Business and Job Opportunity for certification the names of MBE/WBE firms he proposes to use who are not on the list of certified MBE/WBE firms.

21. NOTIFICATION OF SECURITY REQUIREMENTS

The Authority has facilities, systems, and projects where terrorism or other criminal acts may have a significant impact on life safety and key infrastructures. The Authority reserves the right to impose multiple layers of security requirements on the Consultant, its staff and subconsultants and their staffs depending upon the level of security required, as determined by the Authority. These security requirements may include but are not limited to the following:

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

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

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

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

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

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

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

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

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

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

Neither the completion of services hereunder nor the making of payment (final or otherwise) shall release the Consultant from his obligations under this clause. Moreover, neither the enumeration in this clause or the enumeration elsewhere in this Agreement of particular risks

assumed by the Consultant or of particular claims for which he is responsible shall be deemed (a) to limit the effect of the provisions of this clause or of any other clause of this Agreement relating to such risks or claims, (b) to imply that he assumes or is responsible for risks or claims only of the type enumerated in this clause or in any other clause of this Agreement, or (c) to limit the risks which he would assume or the claims for which he would be responsible in the absence of such enumerations.

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

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

23. LIABILITY INSURANCE AND WORKERS' COMPENSATION INSURANCE

A. Commercial Liability Insurance:

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

Further, the certificate of insurance and the liability policy (ies) shall be specifically endorsed that *"The insurance carrier(s) shall not, without obtaining the express advance permission from the General Counsel of the Port Authority, raise any defense involving in any*

way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority."

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

- a) If the services of the Consultant, as directed by the Authority, require the performance of services airside, the Commercial General Liability and Automobile Liability coverage limits stipulated in subparagraph 1, above, shall be increased to an amount not less than \$25,000,000 per occurrence as provided herein.
- b) Endorsement to eliminate any exclusions applying to explosion, collapse and underground property damage.
- c) Endorsement to eliminate any exclusions on account of ownership, maintenance, operation, use, loading or unloading of watercraft.
- d) Coverage for work within 50 feet of railroad.

B. Workers' Compensation Insurance:

1) The Consultant shall take out and maintain Workers' Compensation Insurance in accordance with the requirements of law and Employer's Liability Insurance with limits of not less than \$1,000,000 each accident.

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

- a) United States Longshoremen's and Harbor Workers' Compensation Act Endorsement.
- b) Coverage B Endorsement - Maritime (Masters or Members of the Crew of Vessels), in limits of not less than \$1,000,000 per occurrence.
- c) Amendments to Coverage B, Federal Employers' Liability Act in limits of not less than \$1,000,000 per occurrence.

C. Professional Liability Insurance:

Not less than \$2 million each occurrence, covering negligent acts, errors, mistakes, and omissions arising out of the work or services performed by Consultant, or any person employed by Consultant. All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on an occurrence basis or may be written on a claims made basis with a minimum of a three-year reporting/discovery period.

D. Compliance:

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

- 1) Upon request of the General Manager, Risk Management/Treasury, the Consultant shall furnish to the Authority a certified copy of each policy itself, including the provisions establishing premiums.
- 2) The requirements for insurance procured by the Consultant shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Consultant under this Agreement. The insurance requirements are not a representation by the Authority and its wholly owned entities 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.

The General Manager, Risk Management must approve the certificate(s) of insurance before work. If at any time any of the certificates or policies shall become unsatisfactory to the Authority, the Consultant shall promptly obtain a new and satisfactory certificate and/or policy.

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

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

- A. been indicted or convicted in any jurisdiction;
- B. been suspended, debarred, found not responsible or otherwise disqualified from entering into any agreement with any governmental agency or been denied a government agreement for failure to meet standards related to the integrity of the Consultant;
- C. had an agreement terminated by any governmental agency for breach of agreement or for any cause based in whole or in part on an indictment or conviction;
- D. ever used a name, trade name or abbreviated name, or an Employer Identification Number different from those inserted in the Proposal;
- E. had any business or professional license suspended or revoked or, within the five years prior to proposal opening, had any sanction imposed in excess of \$50,000 as a result of any judicial or administrative proceeding with respect to any license held or with respect to any violation of a federal, state or local environmental law, rule or regulation;

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

G. been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

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

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

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

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

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

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

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

F. the Consultant has not offered, promised or given, demanded or accepted, any undue advantage, directly or indirectly, to or from a public official or employee, political candidate, party or party official, or any private sector employee (including a person who directs or works

for a private sector enterprise in any capacity), in order to obtain, retain, or direct business or to secure any other improper advantage in connection with this Agreement; and

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

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

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

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

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

In any case where the Consultant cannot make the foregoing certifications, the Consultant shall so state and shall furnish with the signed proposal a signed statement, which sets forth in detail the reasons therefor. If the Consultant is uncertain as to whether it can make the foregoing certifications, it shall so indicate in a signed statement furnished with its proposal, setting forth in such statement the reasons for its uncertainty. With respect to the foregoing certification in paragraph "25G.", if the Consultant cannot make the certification, it shall provide, in writing, with the signed proposal: (i) a list of the name(s), address(es), telephone number(s), and place(s) of principal employment of each such individual or organization; and (ii) a statement as to whether such individual or organization has a "financial interest" in this Agreement, as described in the Procurement Disclosure policy of the Authority (a copy of which is available upon request to the Director of the Procurement Department of the Authority). Such disclosure is to be updated, as necessary, up to the time of award of this Agreement. As a result of such disclosure, the Authority shall take appropriate action up to and including a finding of non-responsibility.

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

Notwithstanding that the Consultant may be able to make the foregoing certifications at the time the proposal is submitted, the Consultant shall immediately notify the Authority in writing during the period of irrevocability of proposals on this Agreement or any extension of such period of any change of circumstances which might under this clause make it unable to make the foregoing certifications or require disclosure. The foregoing certifications or signed statement shall be deemed to have been made by the Consultant with full knowledge that they would become a part of the records of the Authority and that the Authority will rely on their truth and accuracy in

awarding this Agreement. In the event that the Authority should determine at any time prior or subsequent to the award of this Agreement that the Consultant has falsely certified as to any material item in the foregoing certifications or has willfully or fraudulently furnished a signed statement which is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the foregoing certifications required to be disclosed, the Authority may determine that the Consultant is not a responsible Consultant with respect to its proposal on the Agreement or with respect to future proposals on Authority agreements and may exercise such other remedies as are provided to it by the Agreement with respect to these matters. In addition, Consultants are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see, e.g. New York Penal Law, Section 175.30 et seq.). Consultants are also advised that the inability to make such certification will not in and of itself disqualify a Consultant, and that in each instance the Authority will evaluate the reasons therefor provided by the Consultant.

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

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

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

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

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

27. NO GIFTS OR GRATUITIES

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

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

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

28. NON-DISCLOSURE/CONFIDENTIALITY, OFFERS OF EMPLOYMENT

During the term of this Agreement, the Consultant shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Authority). Without the express written approval of the Director, you shall keep confidential, and shall require your employees, your subconsultants, and your subconsultant's employees to keep confidential a) all information disclosed by the Authority or its consultants to you or b) developed by you or your subconsultants in the performance of services hereunder. Disclosure of any such information shall constitute a material breach of the Agreement.

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

29. CONFLICT OF INTEREST

During the term of this Agreement, the Consultant shall not participate in any way in the preparation, negotiation or award of any agreement (other than an agreement for its own services to the Authority) to which it is contemplated the Authority may become a party, or participate in any way in the review or resolution of a claim in connection with such an agreement if the Consultant has a substantial financial interest in the Consultant or potential Consultant of the

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

30. DEFINITIONS

As used in sections 24 to 29 above, the following terms shall mean:

Affiliate - Two or more firms are affiliates if a parent owns more than fifty percent of the voting stock of each of the firms, or a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the firms, or if the firms have a common proprietor or general partner.

Agency or Governmental Agency - Any federal, state, city or other local agency, including departments, offices, public authorities and corporations, boards of education and higher education, public development corporations, local development corporations and others.

Investigation - Any inquiries made by any federal, state or local criminal prosecuting agency and any inquiries concerning civil anti-trust investigations made by any federal, state or local governmental agency. Except for inquiries concerning civil anti-trust investigations, the term does not include inquiries made by any civil government agency concerning compliance with any regulation, the nature of which does not carry criminal penalties, nor does it include any background investigations for employment, or federal, state, and local inquiries into tax returns.

Officer - Any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the Consultant by whatever titles known.

Parent - An individual, partnership, joint venture or corporation, which owns more than 50% of the voting stock of the Consultant.

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

32. No commissioner, officer, agent or employee of the Authority shall be charged personally by you with any liability or held liable to you under any term or provision of this Agreement, or because of its execution or attempted execution or because of any breach hereof.

FIRM NAME

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DATE

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

Very truly yours,

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

Lillian D. Valenti
Director
Procurement Department

Date _____

ACCEPTED:

FIRM:

By: _____

Title: _____

Date: _____

INSTRUCTIONS

If the selected Consultant firm is not located in the States of New York or New Jersey, change the number of the last Paragraph of this Agreement from "33" to "34" and insert a new Paragraph "33": as follows:

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

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL ENVIRONMENTAL BEST PRACTICES ASSESSMENT SERVICES FOR THE BAYONNE BRIDGE ON AN AS-NEEDED BASIS

I. BACKGROUND

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

As part of the Authority’s Bayonne Bridge Navigational Clearance Program (BBNCP), the Authority seeks to identify opportunities to alleviate the existing Bayonne Bridge air draft restriction on vessels calling on the Port of New York, and to improve access and safety between Bayonne and Staten Island.

Nationally, several processes/approaches have been implemented with the objective of expediting large-scale construction projects, and reducing associated time and costs required for project implementation.

Following a national cost benefit analysis on the Bayonne Bridge air-draft restriction by the US Army Corps of Engineers (USACE) (www.panynj.gov/about/pdf/Bayonne-Bridge-Air-Draft-Analysis.pdf) the Authority initiated performance of the following work efforts, seeking to reach a recommendation on advancing the BBNCP through the environmental and regulatory review process:

- A. Preliminary Engineering Services for the various bridge replacement options (identified below). The analysis will provide documentation, as required, to support refining the range of alternatives to be proposed for evaluation in a future NEPA Process. The engineering overview includes due diligence analysis of the: Bayonne Bridge (BB) “Lift Bridge” concept; other bridge modification concepts; facility options east of the BB; other potential innovative solutions for modifying the existing bridge that could reduce the project cost and time required to implement, and vessel modification options.

Status: Anticipated completion by 2nd Quarter 2010

- B. Regional Cost Benefit Analyses (CBA) as required to better examine and compare the pros, cons, risks and impacts of all alternatives (bridge replacement and non-bridge replacement solutions), which could be implemented to alleviate the restrictions. This includes assessing the costs and benefits of these various alternatives from a both a regional and agency perspective (as compared to the solely national perspective evaluated by the USACE).

Status: Anticipated Final Report during April 2010

- C. Travel Demand Modeling (TDM) - as required to estimate the impact of each alternative on the regional roadway network. The TDM will also identify changes in total vehicle miles traveled, regional air quality impacts, and diversion of regional freight activity movements.

Status: A Final Report is expected in June 2010

- D. Environmental Screening and Alternatives Analysis (ES AA) as required to compile the baseline environmental conditions within the study area (land use, zoning, socio-economic, environmental conditions, neighborhood and community character, etc.), and incorporate the preliminary findings from the foregoing work efforts (CBA, preliminary engineering studies, TDM, external outreach, etc.), into a broad Alternatives Analysis.

Status: A draft report is expected in July 2010

- E. Alternatives under review under the forgoing work efforts include:

1. No-Build or No Action Alternative
2. Bridge Modifications or Replacement Options (All modifications or replacements have the option to maintain the arch for its historical significance.):
 - a. Raise the bridge deck to a vertical clearance of 215 feet, either by: 1) jacking the arch or 2) raising the roadway deck
 - b. Replace the existing bridge with a new bridge with vertical clearance of at least 215 feet
 - c. Modify the existing bridge (convert to lift-bridge or other moveable design)
 - d. Replace the bridge with tunnel(s)
 - e. Remove the bridge deck and maintain the arch with no roadway connection
3. Vessel Modifications:

Provide shippers with incentives and/or financial support to retrofit their large vessels to pass under the existing bridge.
4. Site-specific, landside improvement options:

Sites east of the Bayonne Bridge are being evaluated as part of the Authority's CBA and summary findings are to be incorporated into the ES AA.
5. Other Alternatives include, but are not limited to:
 - a. A Lock System to lower boats for passage under the bridge.

- b. The following alternatives include removal of the Bayonne Bridge roadway and may have the ability to maintain the arch for its historic significance:
 - 1) Ferry service established between Staten Island and Bayonne and to other potential vehicle destinations.
 - 2) Tramway to connect public transportation options on either side of the Kill Van Kull (KVK).

II. SCOPE OF WORK

The services of the Consultant shall consist of identifying environmental regulatory best practices and options available, and as required, to advance the BBNCP in a timely and efficient manner. The Consultant shall research and document best practices; prepare and present draft and final reports recommending a range of prioritized options available to move the BBNCP forward in an expeditious manner; and identify the impact of those options on each of the alternatives.

III. DESCRIPTION OF CONSULTANT'S TASKS

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

TASK A. MEETINGS & REPORTS

1. Conduct and attend meetings as directed by the Authority. Meetings shall include but are not limited to the following:
 - a. Kick-off meeting to discuss the tasks and schedules.
 - b. Meetings with the Authority to outline the methodology for executing the project.
 - c. Bi-weekly or monthly, with the Authority's project team to review progress and resolve technical and administrative issues as they arise. Such meetings shall include Status of work, Problems encountered or anticipated and potential solutions, budget by task, and percent complete.
 - d. Any necessary updates or modifications to the work effort or schedule.
2. Prepare meeting agenda, and minutes, and provide presentation materials as required for each meeting with the project team.

Meetings/contact by the Consultant with external entities shall be as approved in advance by the Authority. Such requests by the Consultant shall include purpose of meetings and attendees.

TASK B. REVIEW EXISTING WORKS

The Consultant shall not duplicate the following work products, but shall build upon the Authority's efforts by identifying any potential gaps, or additional considerations not presented, as required.

1. Conduct a review of the findings of the following reports:
 - a. USACE National Cost Benefit Analysis
 - b. Preliminary Engineering
 - c. Regional Cost Benefit Analysis

- d. Travel Demand Modeling
 - e. Environmental Screening and Alternatives Analysis
2. Prepare, present and submit a “draft” report documenting your findings and recommendations.
 3. Incorporate Authority comments as required, and submit the report as “final”.

TASK C. REVIEW AND REFINE PURPOSE AND NEED STATEMENT

1. Determine the extent to which the alternatives identified in Section I, above, respond to the Purpose and Need Statement (P&N Statement) developed as part of the ES AA.
2. Ensure that the draft Statement complies with the specific requirements of potential Lead Federal Agencies for the BBNCP. Each alternative under consideration may be under the domain/jurisdiction of differing agencies and as such a variety of guidance may apply contingent upon the alternative being examined. The Consultant should utilize guidance from relevant federal agencies in its review as appropriate.
3. Prepare, present, and submit a draft report documenting your findings and recommendations in performance of this task. The report shall include but not be limited to:
 - a. an assessment of the adequacy, and comprehensiveness of the alternatives under consideration;
 - b. as recommended by the Consultant and approved in advance and in writing by the Director, a refined P&N Statement;
 - c. an assessment of the P&N Statement’s compliance with the requirements of potential lead Federal Agency/Agencies.
4. Prepare, present and submit a “draft” report documenting your findings and recommendations. Incorporate Authority comments as required, and submit the report as “final”.

TASK D. BRIDGE PROGRAMS AND CASE STUDIES OVERVIEW

Several approaches to EIS processes and NEPA compliance have been implemented by others with the objective of expediting large-scale bridge construction projects, reducing implementation costs, maximizing federal funding potential, and assuring complete review and public input through the NEPA process.

1. Identify at least 5-7 comparable projects to the BBNCP and provide a description of the processes employed. Comparable projects are defined as projects within the United States that include the replacement or significant modification of a bridge with a high volume of traffic, over a navigable waterway, in an urbanized area, with competing jurisdictional and regulatory concerns.
 - a. Representative bridge programs may include, but are not limited to:
 - 1) Driscoll Bridge, NJ - Project completion in three (3) years including Environmental Assessment for a major bridge project over a navigable waterway.
 - 2) US I-35 Bridge replacement, MN - Following bridge collapse, the replacement span was completed in 15 months, including completion of environmental review and 4F statement.

- 3) St Louis Bay Bridge, Miss - Following the bridge failure during Hurricane Katrina, the project is 90 percent complete in less than two years.
 - 4) Ambassador Bridge, MI - completion of the environmental review process of a privately owned bridge in less than three (3) years, for an estimate \$5.1 billion bridge replacement project that requires coordination and approvals in both the US and Canada.
- b. Any projects identified as “comparable” should meet as many of the following criteria as possible:
- 1) utilized federal funding and/or other financial assistance;
 - 2) subject to the National Environmental Policy Act (NEPA) regulations;
 - 3) required multi-jurisdictional regulatory considerations;
 - 4) required coordinating efforts across multiple transportation authorities;
 - 5) considered a design-build procurement option;
 - 6) included a thorough public outreach effort;
 - 7) Received recognition from nationally recognized industry organizations for any of the following:
 - a) Cost effectiveness
 - b) Schedule efficiencies
 - c) Innovative design and/or construction methods
2. For each project approved by the Authority, make the appropriate contact and provide:
- a. project overview: identify the need for the project; provide a summary of regional traffic and/or typical use of the facility prior to the project, during project implementation, and after project completion;
 - b. alternatives advanced in the NEPA document;
 - c. project schedule and timeline from inception to completion including any analyses conducted in preparation of formal project initiation;
 - d. identify the level of design presented in the NEPA environmental documents and pre-Record of Decision (ROD) permits;
 - e. lead federal agency and any funding sources;
 - f. impact of transition between sponsoring agency for environmental documentation and firm responsible for construction;
 - g. method of procurement;
 - h. all innovative processes used to expedite applicable environmental regulatory processes.
3. Prepare, present, and submit a draft report documenting your findings for each project assessed. The report shall also identify any lessons learned from each project that would be applicable to the BBNCP.

TASK E. NEPA BEST PRACTICES ASSESSMENT

Since the initiation of NEPA process in the late 1960's, several organizations and agencies have developed and implemented NEPA policy and program refinements and guidelines in the interest of program efficiency and compliance. For example, The Council on Environmental Quality prescribes certain qualitative standards for the process, and documents developed as part of that process, applicable to both Environmental Assessments and Environmental Impact Statements.

1. Develop a list of Best Practices sources and case studies, and submit a draft report describing each source and study to be considered by you in developing a final list of Best Practices to be employed for the BBNCP.
2. Review NEPA Best Practices and Analysis.
3. Upon approval of the draft report by the Authority, review the approved projects, and revise the draft report to included specific process and policy objectives as NEPA Best Practices recommended by you, giving your reasons therefor.
4. Upon approval of the draft report, prepare NEPA guidance to employing the Best Practices as part of the next steps in advancing the environmental review for the BBNCP.

TASK F. ALTERNATIVES APPROACH ANALYSIS

1. Identify alternative federal funding opportunities and advise on the requirements (e.g. administrative requirements, eligibility requirements, etc.) associated with each and assess the impact of such funding on the NEPA process as it relates to the Lead Federal Agency, on the timeline, and the scope for each alternative under consideration.
2. Advise on the most viable funding opportunity (by alternative) for moving forward with the BBNCP. Potential funding sources could include, but are not limited to:
 - a. Federal credit assistance programs
 - b. Direct Federal appropriation
 - c. Potential future National Infrastructure Bank opportunities
 - d. Waterway/harbor utilization fee (e.g. Harbor Maintenance Tax)

The Consultant shall not consider Transportation Infrastructure Finance and Innovation Act (TIFIA) loans and Private Activity Bonds. These options were previously explored, and will be taken into account by the Authority when considering recommendations made by the Consultant, hereunder.

3. Identify Permits/Approvals/Regulatory Process, Schedule and Risk by Alternative. As part of the Programming and Planning work effort (to be performed by others) anticipated on or before the first quarter of 2011, build options are expected to be advanced in concert with the environmental NEPA process and a design build procurement process initiated. The BBNCP will move forward environmental review, regulatory, and permit process with the assumption that the selected alternative will be constructed using a design build approach.
4. Identify the required NEPA document for each project (e.g. Environmental Impact Statement (EIS) or Environmental Assessment (EA)).

5. Review relevant statutes and regulations from any of the agencies that may eventually play the role of Lead Federal Agency.
6. Prepare and submit a draft report documenting findings, to include but not be limited to:
 - a. Regulatory, Permit, and Approval Process Requirement(s)
 - b. Building on the permit documentation to be included as part of the ES AA, provide a permit/regulatory process sequencing strategy for each alternative (i.e. items 2 - 5, above) that includes, but is not limited to:
 - 1) Identifying all federal, state, regional and local government programs, plans, policies, and applicable laws and regulations, which must be considered in moving forward.
 - 2) Identifying all federal, state, and local permits, license and other approvals that must be obtained for each alternative, including the degree or complexity, risk, and level of effort (time) for each of the required permits or approvals.
 - 3) A permit plan/schedule for each alternative.
7. Evaluate Lead Federal Agency, Cooperating, and Participating Agency(ies) Requirements.

The Authority will be meeting with involved agencies regarding the potential nature of their participation in the BBNCP. Results of these meetings will be provided to the Consultant.
8. Upon designation of the Lead Agency, and Cooperating, and Participating Agency(ies) for this project, review updated guidelines as defined by applicable Federal Regulations and prepare and submit a draft report documenting your findings for Authority review.
9. Given the background and technical studies completed to date, and in support of the BBNCP, define, clarify and distinguish the designation of the Lead Federal Agency with responsibility to perform the key functions in the preparation of an EIS, provide the overall direction of the environmental review process, and expedite the delivery of the transportation project for each alternative that would require a Lead Federal Agency to advance.
10. Determine implications for each alternative by lead Federal agency given the following considerations (as applicable):
 - a. The Authority's interest in seeking Federal Funding for the Bayonne Bridge Navigational Clearance Program.
 - b. Prior roles and responsibilities initiated in support of the Goethals Bridge Modernization Program NEPA process.
 - c. SAFETEA-LU guidance and, as the Authority often receives federal funds through other jurisdictions, review the applicability of the requirement that the direct recipient of Federal funds for the project must serve as a joint lead agency.
 - d. The applicability and efficiency of Joint Lead Agencies.
 - e. The Lead Agency's impact on determining cooperating and participating agencies (discussed below).

- f. Assess how competing interests and permit requirements from several Federal agencies (e.g. the requirements for a Section 9 Bridge Permit funding through State DOT) may be reconciled or consolidated.
11. Identify and outline the justification for selection of cooperating agencies for each alternative that would require Cooperating Agency participation.
12. Identify (according to Council on Environmental Quality regulations (40 CFR Section 1501.6) the benefits in terms of time, review, interagency coordination, etc. should a cooperating agency “assume” or require of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise, and determine the applicability or relevance of this provision as it applies to permitting agencies (such as the USACE).
13. Identify all other agencies with an interest in the project, and explain the justification for each such agency’s designation as a Participating Agency in consideration that the standard for participating agency status is more encompassing than the standard for cooperating agency status.
14. Prepare a draft report with alternative specific funding opportunities, the impact of a design build process, regulatory requirements, and recommendations for lead, cooperating, and participating agencies. In addition to narrative, this report will include a summary matrix with this information.
15. Incorporate Authority comments as required, and submit the report as final.

TASK G. FINDINGS AND RECOMMENDATIONS

Prepare a draft Findings and Recommendations Report based upon the work performed in the preceding tasks. The report shall incorporate all previous reports and Authority comments, and include a comprehensive overview as required to provide a general indication of the impact on the BBNCP as a whole. This report shall include, but is not limited to, the following:

- a. Lessons learned from case studies and best practices research that should be applied to the BBNCP as a whole.
- b. A brief representation of the following for each alternative:
 - i) Funding opportunities and the associated impacts on project schedule and cost.
 - ii) Recommended Lead, Cooperating, and Participating agencies where applicable.
 - iii) A list of the required approvals/permits and associated time required to obtain them.

IV. INFORMATION AND MATERIALS PROVIDED BY THE AUTHORITY

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

providing 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.

The documents specified under B below were prepared for the subject work and form a part of this Agreement.

All documents will be made available to the Consultant from the Project Manager listed herein.

Said documents are as follows:

A. DOCUMENTS

Bayonne Bridge Air Draft Analysis, US Army Corps of Engineers, September 2009.

B. DOCUMENTS

1. Preliminary Engineering Services
2. Regional Cost Benefit Analysis
3. Travel Demand Modeling
4. Environmental Screening and Alternatives Analysis

The following documents provide cost estimates and construction timetables that will be used for several of the bridge replacement options.

5. Bayonne Bridge Feasibility Study to Increase Navigational Clearance, March 2009
6. Bayonne Bridge, Increase Navigational Clearance Tunnel Alternative, October 29, 2008

The Authority will also provide data from recent and ongoing analyses conducted by the Authority:

7. Baseline cargo volume forecasts and modal split between truck and rail from the Port Commerce Department's recent strategic forecast analysis;
8. Conceptual construction costs to support light rail transit on the existing bridge or on a modified bridge, by the Tunnels Bridges and Terminals Department (TB&T);
9. Conceptual capital and operating costs and construction timetables for all bridge replacement options, and conceptual operating and reliability characteristics of the lift bridge option, by TB&T;
10. Conceptual operating and maintenance cost estimates for the No Build scenarios, by TB&T;
11. Conceptual project timeline, cargo capacity, and berthing capacity for the three container facility options of the Alternative Site Scenario, by the Port Commerce Department;
12. Fleet forecasts and vessel operating costs used in the USACE study;
13. Marginal regional employment and income associated with port activity, per unit cargo, by the Planning Department.

* * *

**PERFORMANCE OF EXPERT PROFESSIONAL ENVIRONMENTAL BEST
PRACTICES ASSESSMENT SERVICES FOR THE BAYONNE BRIDGE
ON AN AS-NEEDED BASIS**

ATTACHMENT B

AGREEMENT ON TERMS OF DISCUSSION

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

Notwithstanding the above, and without assuming any legal obligation, the Port Authority will employ reasonable efforts, subject to the provisions of the Authority's Freedom of Information Policy and Procedure adopted by the Port Authority's Board of Commissioners on November 20, 2008, which may be found on the Authority website at http://www.panynj.gov/AboutthePortAuthority/ContactInformation/foi_policy.html, not to disclose to any competitor of the undersigned, information submitted which are trade secrets or is maintained for the regulation or supervision of commercial enterprise which, if disclosed, would cause substantial injury to the competitive position of the enterprise, and which information is identified by the Proposer as proprietary, which may be disclosed by the undersigned to the Port Authority as part of or in connection with the submission of a proposal.

(Company)

(Signature)

(Title)

(Date)

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

ATTACHMENT C
COMPANY PROFILE

PERFORMANCE OF EXPERT PROFESSIONAL ENVIRONMENTAL BEST PRACTICES
ASSESSMENT SERVICES FOR THE BAYONNE BRIDGE ON AN AS-NEEDED BASIS
(RFP #21601)

1. Company Name (print or type):

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

3. Business Telephone Number: _____

4. Business Fax Number: _____

5. Firm website: _____

6. Federal Employer Identification Number (EIN): _____

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

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

9. Officer or Principal of Firm and Title:

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

11. Is your firm certified by the Authority as a Minority-owned, Woman-owned or Small Business Enterprise (M/W/SBE)? Yes No

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

If your firm is an M/WBE not currently certified by the Authority, see the Authority's web site – <http://www.panynj.gov/DoingBusinessWith/economic/html/objo.html> to receive information and apply for certification.

<YOUR FIRM NAME>

Task A - MEETINGS & REPORTS

Name	Title	Service Type	Company	Hourly Rate	Multiplier (if applicable)	Billing Rate

Task B - REVIEW EXISTING WORKS

Name	Title	Service Type	Company	Hourly Rate	Multiplier (if applicable)	Billing Rate

Task C - REVIEW AND REFINE PURPOSE AND NEED STATEMENT

Name	Title	Service Type	Company	Hourly Rate	Multiplier (if applicable)	Billing Rate

Task D - BRIDGE PROGRAMS AND CASE STUDIES OVERVIEW

Name	Title	Service Type	Company	Hourly Rate	Multiplier (if applicable)	Billing Rate

Task E - NEPA BEST PRACTICES ASSESSMENT

Name	Title	Service Type	Company	Hourly Rate	Multiplier (if applicable)	Billing Rate

Task F - ALTERNATIVES APPROACH ANALYSIS

Name	Title	Service Type	Company	Hourly Rate	Multiplier (if applicable)	Billing Rate

Task G - FINDINGS AND RECOMMENDATIONS

Name	Title	Service Type	Company	Hourly Rate	Multiplier (if applicable)	Billing Rate

Anticipated Itemized Expenses (Out of Pocket)

Description of Expense	Cost

Reimb. Total Cost: \$0.00



THE PORT AUTHORITY OF NY & NJ

P.A. Agreement #TBT-10-020

September 1, 2010

Lillian D. Valenti
Director, Procurement

AKRF Inc.
440 Park Avenue South, 7th Floor
New York, NY 10016

CONFORMED

Attention: Mr. Robert Conway, P.E., Senior Vice President

**SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL ENVIRONMENTAL
BEST PRACTICES ASSESSMENT SERVICES FOR THE BAYONNE
BRIDGE ON AN AS-NEEDED BASIS**

Dear Mr. Conway:

1. The Port Authority of New York and New Jersey (hereinafter referred to as the "Authority") hereby offers to retain AKRF, Inc., (hereinafter referred to as "the Consultant" or "you") to provide expert professional environmental best practices assessment services for the Bayonne Bridge on an "as-needed" basis, 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.

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

For the purpose of administering this Agreement, the Director has designated Mr. Mark F. Muriello, Assistant Director, to act as her duly authorized representative. The Project Manager for this project is Ms. Joann Papageorgis, at (212) 435-4840, or e-mail address jpapageorgis@panynj.gov.

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

4. In response to a request for specific services hereunder and prior to the performance of any such services, you shall submit in writing to the Director for approval an estimated cost and staffing analysis of such services to the Authority. Approval of such cost and direction from the Director in writing to proceed shall effectuate the performance of services under this Agreement. After the point at which your expenditures for such services reach such approved estimated cost, you shall not continue to render any such services unless you are specifically authorized in

*One Madison Avenue, 7th Floor
New York, NY 10010
T: 212 435 8427*



writing to so continue by the Director and you shall submit to her for approval a revised written estimated cost of such services. If no such authorization is issued, the performance of the specifically requested services under 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 an amount equal to the approved estimated cost. Preparation of the cost estimate and staffing analysis mentioned in the first sentence of this paragraph shall not be a compensable service hereunder.

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

6. The Consultant shall meet and consult with Authority staff as requested by the Director in connection with the services to be performed herein. All items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Director. The Director may disapprove, if in her sole opinion said items are not in accordance with the requirements of this Agreement, sound engineering principles, or professional standards, or are impractical, uneconomical, or unsuited in any way for the purpose for which the contemplated services 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 Director, but the Consultant shall not be compensated under any provision of this Agreement for performance of such revisions. No approval or disapproval or omission to approve or disapprove, however, shall relieve the Consultant of its responsibility under this Agreement to furnish the requested services in accordance with an agreed upon schedule and in accordance with professional standards.

7. You shall not continue to render services under this Agreement after the point at which the total amount to be paid to you hereunder 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 Director. If no such authorization is issued, this Agreement shall be terminated without further obligation by either of the parties as to services not yet performed, but you shall be compensated as hereinafter provided for services already completed.

8. As full compensation for all your services and obligations in connection with this Agreement, the Authority will pay you the total of the amounts computed under subparagraphs A, B, C, and D below, subject to the limits on compensation and provisions set forth in paragraph 4 and 7 above. Subject to the terms and conditions below, travel time is not reimbursable under subparagraphs A, B, and C hereunder.



A. The Consultant shall be compensated at an amount equal to 2.95 times the actual salaries paid by you to professional and technical personnel (but not to partners or principals) for time actually spent by them in the performance of services hereunder; plus an amount equal to the number of hours actually spent by partners and principals in the performance of services hereunder times the billing rate (no multiplier applied) described below but in each case excluding premium payments for overtime work or night work or for performing hazardous duty. Attached hereto is a schedule of actual salaries and titles of architects, engineers, technical staff or other permanent professional and technical personnel employed by you, as well as rates customarily billed for partners and principals on projects such as this. Said staffing schedule shall clearly indicate any of your employees, proposed by you to perform the requested services, that are former Authority employees. For compensation purposes under this Agreement, no said salary or amount shall exceed the salary or amount received by said personnel or rate customarily billed for a partner or principal as of the effective date of this Agreement unless the Director has been notified in advance, in writing, of the increased salary, rate or amount and approves the increase.

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

Notwithstanding the above, the multiplier set forth in the first line of this subparagraph shall be applied only in the case of personnel other than partners or principals who are permanent employees.

B. An amount equal to the premium payments for overtime work or night work or for performing hazardous duty, actually paid to professional and technical employees, but not partners or principals, for time actually spent by them in the performance of services hereunder when such overtime or other premium payments have been demonstrated to be in accordance



with the Consultant's normal business practice and have been authorized in advance by the Director in writing. The Project Manager for the Authority shall have the right to authorize and approve premium payments up to a total amount of \$1,000 per occasion. Payments above said total amount shall be subject to the prior written authorization of the Director. Such premium payments to supervisory employees, who do not receive such payments in the Consultant's normal business practice, shall not be given under this Agreement.

C. An amount equal to the amounts actually paid to subconsultants hereunder who have been retained after the written approval by the Director of the subconsultant and the compensation to be paid the subconsultant. The Consultant shall submit a copy of the terms and conditions of the subconsultant's compensation (including multiplier, if applicable), as well as an estimate of the number of hours required by the subconsultant to perform its services, as part of any request for approval of the subconsultant.

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

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

1) 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

2) 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.

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

When the Consultant uses a personal vehicle to provide services within the Port District, the Consultant shall be reimbursed for travel expenses beyond normal commuting costs at a rate not higher than the Annual Federal Mileage Reimbursement Rate (as determined by the Internal Revenue Services) per mile traveled by auto.



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 shall be reimbursable hereunder when approved in advance in writing by the Director. The cost for all meals and lodging on approved overnight trips are limited to the amounts established by the United States General Services Administration for that locality.

General Services Administration (GSA) Rates:

Domestic Rates:

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

You shall obtain the Director'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 provide said receipts with the appropriate billing.

E. As used herein:

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

"Salaries paid to employees" or words of similar import shall mean salaries and amounts actually paid (excluding payments or factors for holidays, vacations, sick time, bonuses, profit participations and other similar payments) to 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 that 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 multiplier and billing rates referred to in subparagraph A above.

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

The Authority shall have the right to inspect your records, and those of your subconsultants, pertaining to any compensation to be paid hereunder, such records to be maintained by you and



your subconsultants for a period of one year after completion of services to be performed under this Agreement.

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

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

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

13. Under no circumstances shall you or your subconsultants communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the services to be performed hereunder except upon prior written approval and instructions of the Director, provided, however that data from manufacturers and suppliers of material shall be obtained by you when you find such data necessary unless otherwise instructed by the Director.

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



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

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

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



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

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

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

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

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

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

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

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

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



To be "certified" a firm must be certified by the Authority's Office of Business and Job Opportunity.

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

The Authority has a list of certified MBE/WBE service firms which is available to you at your request. The Consultant will be required to submit to the Authority's Office of Business and Job Opportunity for certification the names of MBE/WBE firms he proposes to use who are not on the list of certified MBE/WBE firms.

21. NOTIFICATION OF SECURITY REQUIREMENTS

The Authority has facilities, systems, and projects where terrorism or other criminal acts may have a significant impact on life safety and key infrastructures. The Authority reserves the right to impose multiple layers of security requirements on the Consultant, its staff and subconsultants and their staffs depending upon the level of security required, as determined by the Authority. These security requirements may include but are not limited to the following:

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

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

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

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



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

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

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

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

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

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

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



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

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

23. LIABILITY INSURANCE AND WORKERS' COMPENSATION INSURANCE

A. Commercial Liability Insurance:

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

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

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



- a) If the services of the Consultant, as directed by the Authority, require the performance of services airside, the Commercial General Liability and Automobile Liability coverage limits stipulated in subparagraph 1, above, shall be increased to an amount not less than \$25,000,000 per occurrence as provided herein.
- b) Endorsement to eliminate any exclusions applying to explosion, collapse and underground property damage.
- c) Endorsement to eliminate any exclusions on account of ownership, maintenance, operation, use, loading or unloading of watercraft.
- d) Coverage for work within 50 feet of railroad.

B. Workers' Compensation Insurance:

1) The Consultant shall take out and maintain Workers' Compensation Insurance in accordance with the requirements of law and Employer's Liability Insurance with limits of not less than \$1,000,000 each accident.

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

- a) United States Longshoremen's and Harbor Workers' Compensation Act Endorsement.
- b) Coverage B Endorsement - Maritime (Masters or Members of the Crew of Vessels), in limits of not less than \$1,000,000 per occurrence.
- c) Amendments to Coverage B, Federal Employers' Liability Act in limits of not less than \$1,000,000 per occurrence.

C. Professional Liability Insurance:

Not less than \$2 million each occurrence, covering negligent acts, errors, mistakes, and omissions arising out of the work or services performed by Consultant, or any person employed by Consultant. All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on an occurrence basis or may be written on a claims made basis with a minimum of a three-year reporting/discovery period.

D. Compliance:

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



- 1) Upon request of the General Manager, Risk Management/Treasury, the Consultant shall furnish to the Authority a certified copy of each policy itself, including the provisions establishing premiums.
- 2) The requirements for insurance procured by the Consultant shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Consultant under this Agreement. The insurance requirements are not a representation by the Authority and its wholly owned entities 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.

The General Manager, Risk Management must approve the certificate(s) of insurance before work. If at any time any of the certificates or policies shall become unsatisfactory to the Authority, the Consultant shall promptly obtain a new and satisfactory certificate and/or policy.

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

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

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



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

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

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

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

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

D. this organization has not made any offers or agreements or taken any other action with respect to any Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics dated April 11, 1996 (a copy of which is available upon request to the individual named in the clause hercof entitled "Consultant's Questions"), 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 employec (including a person who directs or works for a private sector enterprise in any capacity), in order to obtain, retain, or direct business or to secure any other improper advantage in connection with this Agreement; and

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

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



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

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

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

In any case where the Consultant cannot make the foregoing certifications, the Consultant shall so state and shall furnish with the signed proposal a signed statement, which sets forth in detail the reasons therefor. If the Consultant is uncertain as to whether it can make the foregoing certifications, it shall so indicate in a signed statement furnished with its proposal, setting forth in such statement the reasons for its uncertainty. With respect to the foregoing certification in paragraph "25G.", if the Consultant cannot make the certification, it shall provide, in writing, with the signed proposal: (i) a list of the name(s), address(es), telephone number(s), and place(s) of principal employment of each such individual or organization; and (ii) a statement as to whether such individual or organization has a "financial interest" in this Agreement, as described in the Procurement Disclosure policy of the Authority (a copy of which is available upon request to the Director of the Procurement Department of the Authority). Such disclosure is to be updated, as necessary, up to the time of award of this Agreement. As a result of such disclosure, the Authority shall take appropriate action up to and including a finding of non-responsibility.

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

Notwithstanding that the Consultant may be able to make the foregoing certifications at the time the proposal is submitted, the Consultant shall immediately notify the Authority in writing during the period of irrevocability of proposals on this Agreement or any extension of such period of any change of circumstances which might under this clause make it unable to make the foregoing certifications or require disclosure. The foregoing certifications or signed statement shall be deemed to have been made by the Consultant with full knowledge that they would become a part of the records of the Authority and that the Authority will rely on their truth and accuracy in awarding this Agreement. In the event that the Authority should determine at any time prior or subsequent to the award of this Agreement that the Consultant has falsely certified as to any material item in the foregoing certifications or has willfully or fraudulently furnished a signed statement which is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the foregoing certifications required to be disclosed, the Authority may determine that the Consultant is not a responsible Consultant with respect to its proposal on the Agreement or with respect to future proposals on Authority agreements and may exercise such other remedies as are provided to it by the Agreement with respect to these matters.



In addition, Consultants are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see, e.g. New York Penal Law, Section 175.30 et seq.). Consultants are also advised that the inability to make such certification will not in and of itself disqualify a Consultant, and that in each instance the Authority will evaluate the reasons therefor provided by the Consultant.

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

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

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

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

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

27. NO GIFTS OR GRATUITIES

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



Authority agreement or matter. Any such conduct shall be deemed a material breach of this Agreement.

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

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

28. NON-DISCLOSURE/CONFIDENTIALITY, OFFERS OF EMPLOYMENT

During the term of this Agreement, the Consultant shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Authority). Without the express written approval of the Director, you shall keep confidential, and shall require your employees, your subconsultants, and your subconsultant's employees to keep confidential a) all information disclosed by the Authority or its consultants to you or b) developed by you or your subconsultants in the performance of services hereunder. Disclosure of any such information shall constitute a material breach of the Agreement.

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

29. CONFLICT OF INTEREST

During the term of this Agreement, the Consultant shall not participate in any way in the preparation, negotiation or award of any agreement (other than an agreement for its own services to the Authority) to which it is contemplated the Authority may become a party, or participate in any way in the review or resolution of a claim in connection with such an agreement if the Consultant has a substantial financial interest in the Consultant or potential Consultant of the Authority or if the Consultant has an arrangement for future employment or for any other business relationship with said Consultant or potential Consultant, nor shall the Consultant at any time take any other action which might be viewed as or give the appearance of conflict of interest on its part. If the possibility of such an arrangement for future employment or for another business arrangement has been or is the subject of a previous or current discussion, or if the Consultant has reason to believe such an arrangement may be the subject of future discussion, or if the Consultant has any financial interest, substantial or not, in a Consultant or potential



Consultant of the Authority, and the Consultant's participation in the preparation, negotiation or award of any agreement with such a Consultant or the review or resolution of a claim in connection with such an agreement is contemplated or if the Consultant has reason to believe that any other situation exists which might be viewed as or give the appearance of a conflict of interest, the Consultant shall immediately inform the Director in writing of such situation giving the full details thereof. Unless the Consultant receives the specific written approval of the Director, the Consultant shall not take the contemplated action which might be viewed as or give the appearance of a conflict of interest. In the event the Director shall determine that the performance by the Consultant of a portion of its services under this Agreement is precluded by the provisions of this numbered paragraph, or a portion of the Consultant's said services is determined by the Director to be no longer appropriate because of such preclusion, then the Director shall have full authority on behalf of both parties to order that such portion of the Consultant's services not be performed by the Consultant, reserving the right, however, to have the services performed by others and any lump sum compensation payable hereunder which is applicable to the deleted work shall be equitably adjusted by the parties. The Consultant's execution of this document shall constitute a representation by the Consultant that at the time of such execution the Consultant knows of no circumstances, present or anticipated, which come within the provisions of this paragraph or which might otherwise be viewed as or give the appearance of a conflict of interest on the Consultant's part. The Consultant acknowledges that the Authority may preclude it from involvement in certain disposition/privatization initiatives or transactions that result from the findings of its evaluations hereunder or from participation in any agreements which result, directly or indirectly, from the services provided by the Consultant hereunder.

30. DEFINITIONS

As used in sections 24 to 29 above, the following terms shall mean:

Affiliate - Two or more firms are affiliates if a parent owns more than fifty percent of the voting stock of each of the firms, or a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the firms, or if the firms have a common proprietor or general partner.

Agency or Governmental Agency - Any federal, state, city or other local agency, including departments, offices, public authorities and corporations, boards of education and higher education, public development corporations, local development corporations and others.

Investigation - Any inquiries made by any federal, state or local criminal prosecuting agency and any inquiries concerning civil anti-trust investigations made by any federal, state or local governmental agency. Except for inquiries concerning civil anti-trust investigations, the term does not include inquiries made by any civil government agency concerning compliance with any regulation, the nature of which does not carry criminal penalties, nor does it include any background investigations for employment, or federal, state, and local inquiries into tax returns.



Officer - Any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the Consultant by whatever titles known.

Parent - An individual, partnership, joint venture or corporation, which owns more than 50% of the voting stock of the Consultant.

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

32. 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.



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

Very truly yours,

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

Lillian D. Valenti
Director
Procurement Department

Date 9/7/10

ACCEPTED:

AKRF, INC.:

By:

Title: JULIA P. DOWNING, SENIOR VICE PRESIDENT

Date: 09/02/10

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL ENVIRONMENTAL BEST PRACTICES ASSESSMENT SERVICES FOR THE BAYONNE BRIDGE ON AN AS-NEEDED BASIS

I. BACKGROUND

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

The Authority’s facilities also include all of its wholly owned subsidiaries, such as but not limited to The Port Authority Trans-Hudson Corporation (PATH), that is a heavy-rail rapid-transit system, operating 24 hours a day, seven days a week, and serves as a critical link in the New York-New Jersey transportation network. Consultant shall provide services to the Authority and any of its subsidiaries as required by the Authority.

As part of the Authority’s Bayonne Bridge Navigational Clearance Program (BBNCP), the Authority seeks to identify opportunities to alleviate the existing Bayonne Bridge air draft restriction on vessels calling on the Port of New York, and to improve access and safety between Bayonne and Staten Island.

Nationally, several processes/approaches have been implemented with the objective of expediting large-scale construction projects, and reducing associated time and costs required for project implementation.

Following a national cost benefit analysis on the Bayonne Bridge air-draft restriction by the US Army Corps of Engineers (USACE) (www.panynj.gov/about/pdf/Bayonne-Bridge-Air-Draft-Analysis.pdf) the Authority initiated performance of the following work efforts, seeking to reach a recommendation on advancing the BBNCP through the environmental and regulatory review process:

- A. Preliminary Engineering Services for the various bridge replacement options (identified below). The analysis will provide documentation, as required, to support refining the range of alternatives to be proposed for evaluation in a future NEPA Process. The engineering overview includes due diligence analysis of the: Bayonne Bridge (BB) “Lift Bridge” concept; other bridge modification concepts; facility options east of the BB; other

potential innovative solutions for modifying the existing bridge that could reduce the project cost and time required to implement, and vessel modification options.

Status: Anticipated completion by 2nd Quarter 2010

- B. Regional Cost Benefit Analyses (CBA) as required to better examine and compare the pros, cons, risks and impacts of all alternatives (bridge replacement and non-bridge replacement solutions), which could be implemented to alleviate the restrictions. This includes assessing the costs and benefits of these various alternatives from a both a regional and agency perspective (as compared to the solely national perspective evaluated by the USACE).

Status: Anticipated Final Report during April 2010

- C. Travel Demand Modeling (TDM) - as required to estimate the impact of each alternative on the regional roadway network. The TDM will also identify changes in total vehicle miles traveled, regional air quality impacts, and diversion of regional freight activity movements.

Status: A Final Report is expected in June 2010

- D. Environmental Screening and Alternatives Analysis (ES AA) as required to compile the baseline environmental conditions within the study area (land use, zoning, socio-economic, environmental conditions, neighborhood and community character, etc.), and incorporate the preliminary findings from the foregoing work efforts (CBA, preliminary engineering studies, TDM, external outreach, etc.), into a broad Alternatives Analysis.

Status: A draft report is expected in July 2010

- E. Alternatives under review under the forgoing work efforts include:

1. No-Build or No Action Alternative
2. Bridge Modifications or Replacement Options (All modifications or replacements have the option to maintain the arch for its historical significance.):
 - a. Raise the bridge deck to a vertical clearance of 215 feet, either by: 1) jacking the arch or 2) raising the roadway deck
 - b. Replace the existing bridge with a new bridge with vertical clearance of at least 215 feet
 - c. Modify the existing bridge (convert to lift-bridge or other moveable design)
 - d. Replace the bridge with tunnel(s)
 - e. Remove the bridge deck and maintain the arch with no roadway connection
3. Vessel Modifications:

Provide shippers with incentives and/or financial support to retrofit their large vessels to pass under the existing bridge.
4. Site-specific, landside improvement options:

Sites east of the Bayonne Bridge are being evaluated as part of the Authority's CBA and summary findings are to be incorporated into the ES AA.

5. Other Alternatives include, but are not limited to:
 - a. A Lock System to lower boats for passage under the bridge.
 - b. The following alternatives include removal of the Bayonne Bridge roadway and may have the ability to maintain the arch for its historic significance:
 - 1) Ferry service established between Staten Island and Bayonne and to other potential vehicle destinations.
 - 2) Tramway to connect public transportation options on either side of the Kill Van Kull (KVK).

II. SCOPE OF WORK

The services of the Consultant shall consist of identifying environmental regulatory best practices and options available, and as required, to advance the BBNCP in a timely and efficient manner. The Consultant shall research and document best practices; prepare and present draft and final reports recommending a range of prioritized options available to move the BBNCP forward in an expeditious manner; and identify the impact of those options on each of the alternatives.

III. DESCRIPTION OF CONSULTANT'S TASKS

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

TASK A. MEETINGS & REPORTS

1. Conduct and attend meetings as directed by the Authority. Meetings shall include but are not limited to the following:
 - a. Kick-off meeting to discuss the tasks and schedules.
 - b. Meetings with the Authority to outline the methodology for executing the project.
 - c. Bi-weekly or monthly, with the Authority's project team to review progress and resolve technical and administrative issues as they arise. Such meetings shall include Status of work, Problems encountered or anticipated and potential solutions, budget by task, and percent complete.
 - d. Any necessary updates or modifications to the work effort or schedule.
2. Prepare meeting agenda, and minutes, and provide presentation materials as required for each meeting with the project team.

Meetings/contact by the Consultant with external entities shall be as approved in advance by the Authority. Such requests by the Consultant shall include purpose of meetings and attendees.

TASK B. REVIEW EXISTING WORKS

The Consultant shall not duplicate the following work products, but shall build upon the Authority's efforts by identifying any potential gaps, or additional considerations not presented, as required.

1. Conduct a review of the findings of the following reports:

- a. USACE National Cost Benefit Analysis
 - b. Preliminary Engineering
 - c. Regional Cost Benefit Analysis
 - d. Travel Demand Modeling
 - e. Environmental Screening and Alternatives Analysis
2. Prepare, present and submit a “draft” report documenting your findings and recommendations.
 3. Incorporate Authority comments as required, and submit the report as “final”.

TASK C. REVIEW AND REFINE PURPOSE AND NEED STATEMENT

1. Determine the extent to which the alternatives identified in Section I, above, respond to the Purpose and Need Statement (P&N Statement) developed as part of the ES AA.
2. Ensure that the draft Statement complies with the specific requirements of potential Lead Federal Agencies for the BBNCP. Each alternative under consideration may be under the domain/jurisdiction of differing agencies and as such a variety of guidance may apply contingent upon the alternative being examined. The Consultant should utilize guidance from relevant federal agencies in its review as appropriate.
3. Prepare, present, and submit a draft report documenting your findings and recommendations in performance of this task. The report shall include but not be limited to:
 - a. an assessment of the adequacy, and comprehensiveness of the alternatives under consideration;
 - b. as recommended by the Consultant and approved in advance and in writing by the Director, a refined P&N Statement;
 - c. an assessment of the P&N Statement’s compliance with the requirements of potential lead Federal Agency/Agencies.
4. Prepare, present and submit a “draft” report documenting your findings and recommendations. Incorporate Authority comments as required, and submit the report as “final”.

TASK D. BRIDGE PROGRAMS AND CASE STUDIES OVERVIEW

Several approaches to EIS processes and NEPA compliance have been implemented by others with the objective of expediting large-scale bridge construction projects, reducing implementation costs, maximizing federal funding potential, and assuring complete review and public input through the NEPA process.

1. Identify at least 5-7 comparable projects to the BBNCP and provide a description of the processes employed. Comparable projects are defined as projects within the United States that include the replacement or significant modification of a bridge with a high volume of traffic, over a navigable waterway, in an urbanized area, with competing jurisdictional and regulatory concerns.
 - a. Representative bridge programs may include, but are not limited to:
 - 1) Driscoll Bridge, NJ - Project completion in three (3) years including Environmental Assessment for a major bridge project over a navigable waterway.

- 2) US I-35 Bridge replacement, MN - Following bridge collapse, the replacement span was completed in 15 months, including completion of environmental review and 4F statement.
 - 3) St Louis Bay Bridge, Miss - Following the bridge failure during Hurricane Katrina, the project is 90 percent complete in less than two years.
 - 4) Ambassador Bridge, MI - completion of the environmental review process of a privately owned bridge in less than three (3) years, for an estimate \$5.1 billion bridge replacement project that requires coordination and approvals in both the US and Canada.
- b. Any projects identified as “comparable” should meet as many of the following criteria as possible:
- 1) utilized federal funding and/or other financial assistance;
 - 2) subject to the National Environmental Policy Act (NEPA) regulations;
 - 3) required multi-jurisdictional regulatory considerations;
 - 4) required coordinating efforts across multiple transportation authorities;
 - 5) considered a design-build procurement option;
 - 6) included a thorough public outreach effort;
 - 7) Received recognition from nationally recognized industry organizations for any of the following:
 - a) Cost effectiveness
 - b) Schedule efficiencies
 - c) Innovative design and/or construction methods
2. For each project approved by the Authority, make the appropriate contact and provide:
- a. project overview: identify the need for the project; provide a summary of regional traffic and/or typical use of the facility prior to the project, during project implementation, and after project completion;
 - b. alternatives advanced in the NEPA document;
 - c. project schedule and timeline from inception to completion including any analyses conducted in preparation of formal project initiation;
 - d. identify the level of design presented in the NEPA environmental documents and pro-Record of Decision (ROD) permits;
 - e. lead federal agency and any funding sources;
 - f. impact of transition between sponsoring agency for environmental documentation and firm responsible for construction;
 - g. method of procurement;
 - h. all innovative processes used to expedite applicable environmental regulatory processes.

3. Prepare, present, and submit a draft report documenting your findings for each project assessed. The report shall also identify any lessons learned from each project that would be applicable to the BBNCP.

TASK E. NEPA BEST PRACTICES ASSESSMENT

Since the initiation of NEPA process in the late 1960's, several organizations and agencies have developed and implemented NEPA policy and program refinements and guidelines in the interest of program efficiency and compliance. For example, The Council on Environmental Quality prescribes certain qualitative standards for the process, and documents developed as part of that process, applicable to both Environmental Assessments and Environmental Impact Statements.

1. Develop a list of Best Practices sources and case studies, and submit a draft report describing each source and study to be considered by you in developing a final list of Best Practices to be employed for the BBNCP.
2. Review NEPA Best Practices and Analysis.
3. Upon approval of the draft report by the Authority, review the approved projects, and revise the draft report to included specific process and policy objectives as NEPA Best Practices recommended by you, giving your reasons therefor.
4. Upon approval of the draft report, prepare NEPA guidance to employing the Best Practices as part of the next steps in advancing the environmental review for the BBNCP.

TASK F. ALTERNATIVES APPROACH ANALYSIS

1. Identify alternative federal funding opportunities and advise on the requirements (e.g. administrative requirements, eligibility requirements, etc.) associated with each and assess the impact of such funding on the NEPA process as it relates to the Lead Federal Agency, on the timeline, and the scope for each alternative under consideration.
2. Advise on the most viable funding opportunity (by alternative) for moving forward with the BBNCP. Potential funding sources could include, but are not limited to:
 - a. Federal credit assistance programs
 - b. Direct Federal appropriation
 - c. Potential future National Infrastructure Bank opportunities
 - d. Waterway/harbor utilization fee (e.g. Harbor Maintenance Tax)

The Consultant shall not consider Transportation Infrastructure Finance and Innovation Act (TIFIA) loans and Private Activity Bonds. These options were previously explored, and will be taken into account by the Authority when considering recommendations made by the Consultant, hereunder.

3. Identify Permits/Approvals/Regulatory Process, Schedule and Risk by Alternative. As part of the Programming and Planning work effort (to be performed by others) anticipated on or before the first quarter of 2011, build options are expected to be advanced in concert with the environmental NEPA process and a design build procurement process initiated. The BBNCP will move forward environmental review, regulatory, and permit

process with the assumption that the selected alternative will be constructed using a design build approach.

4. Identify the required NEPA document for each project (e.g. Environmental Impact Statement (EIS) or Environmental Assessment (EA)).
5. Review relevant statutes and regulations from any of the agencies that may eventually play the role of Lead Federal Agency.
6. Prepare and submit a draft report documenting findings, to include but not be limited to:
 - a. Regulatory, Permit, and Approval Process Requirement(s)
 - b. Building on the permit documentation to be included as part of the ES AA, provide a permit/regulatory process sequencing strategy for each alternative (i.e. items 2 - 5, above) that includes, but is not limited to:
 - 1) Identifying all federal, state, regional and local government programs, plans, policies, and applicable laws and regulations, which must be considered in moving forward.
 - 2) Identifying all federal, state, and local permits, license and other approvals that must be obtained for each alternative, including the degree or complexity, risk, and level of effort (time) for each of the required permits or approvals.
 - 3) A permit plan/schedule for each alternative.
7. Evaluate Lead Federal Agency, Cooperating, and Participating Agency(ies) Requirements.

The Authority will be meeting with involved agencies regarding the potential nature of their participation in the BBNCP. Results of these meetings will be provided to the Consultant.
8. Upon designation of the Lead Agency, and Cooperating, and Participating Agency(ies) for this project, review updated guidelines as defined by applicable Federal Regulations and prepare and submit a draft report documenting your findings for Authority review.
9. Given the background and technical studies completed to date, and in support of the BBNCP, define, clarify and distinguish the designation of the Lead Federal Agency with responsibility to perform the key functions in the preparation of an EIS, provide the overall direction of the environmental review process, and expedite the delivery of the transportation project for each alternative that would require a Lead Federal Agency to advance.
10. Determine implications for each alternative by lead Federal agency given the following considerations (as applicable):
 - a. The Authority's interest in seeking Federal Funding for the Bayonne Bridge Navigational Clearance Program.
 - b. Prior roles and responsibilities initiated in support of the Goethals Bridge Modernization Program NEPA process.

- c. SAFETEA-LU guidance and, as the Authority often receives federal funds through other jurisdictions, review the applicability of the requirement that the direct recipient of Federal funds for the project must serve as a joint lead agency.
 - d. The applicability and efficiency of Joint Lead Agencies.
 - e. The Lead Agency's impact on determining cooperating and participating agencies (discussed below).
 - f. Assess how competing interests and permit requirements from several Federal agencies (e.g. the requirements for a Section 9 Bridge Permit funding through State DOT) may be reconciled or consolidated.
11. Identify and outline the justification for selection of cooperating agencies for each alternative that would require Cooperating Agency participation.
 12. Identify (according to Council on Environmental Quality regulations (40 CFR Section 1501.6) the benefits in terms of time, review, interagency coordination, etc. should a cooperating agency "assume" or require of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise, and determine the applicability or relevance of this provision as it applies to permitting agencies (such as the USACE).
 13. Identify all other agencies with an interest in the project, and explain the justification for each such agency's designation as a Participating Agency in consideration that the standard for participating agency status is more encompassing than the standard for cooperating agency status.
 14. Prepare a draft report with alternative specific funding opportunities, the impact of a design build process, regulatory requirements, and recommendations for lead, cooperating, and participating agencies. In addition to narrative, this report will include a summary matrix with this information.
 15. Incorporate Authority comments as required, and submit the report as final.

TASK G. FINDINGS AND RECOMMENDATIONS

Prepare a draft Findings and Recommendations Report based upon the work performed in the preceding tasks. The report shall incorporate all previous reports and Authority comments, and include a comprehensive overview as required to provide a general indication of the impact on the BBNCP as a whole. This report shall include, but is not limited to, the following:

1. Lessons learned from case studies and best practices research that should be applied to the BBNCP as a whole.
2. A brief representation of the following for each alternative:
 - a) Funding opportunities and the associated impacts on project schedule and cost.
 - b) Recommended Lead, Cooperating, and Participating agencies where applicable.
 - c) A list of the required approvals/permits and associated time required to obtain them.

IV. INFORMATION AND MATERIALS PROVIDED BY THE AUTHORITY

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

The documents specified under B below were prepared for the subject work and form a part of this Agreement.

All documents will be made available to the Consultant from the Project Manager listed herein.

Said documents are as follows:

A. DOCUMENTS

Bayonne Bridge Air Draft Analysis, US Army Corps of Engineers, September 2009.

B. DOCUMENTS

1. Preliminary Engineering Services
2. Regional Cost Benefit Analysis
3. Travel Demand Modeling
4. Environmental Screening and Alternatives Analysis

The following documents provide cost estimates and construction timetables that will be used for several of the bridge replacement options.

5. Bayonne Bridge Feasibility Study to Increase Navigational Clearance, March 2009
6. Bayonne Bridge, Increase Navigational Clearance Tunnel Alternative, October 29, 2008

The Authority will also provide data from recent and ongoing analyses conducted by the Authority:

7. Baseline cargo volume forecasts and modal split between truck and rail from the Port Commerce Department's recent strategic forecast analysis;
8. Conceptual construction costs to support light rail transit on the existing bridge or on a modified bridge, by the Tunnels Bridges and Terminals Department (TB&T);
9. Conceptual capital and operating costs and construction timetables for all bridge replacement options, and conceptual operating and reliability characteristics of the lift bridge option, by TB&T;
10. Conceptual operating and maintenance cost estimates for the No Build scenarios, by TB&T;

11. Conceptual project timeline, cargo capacity, and berthing capacity for the three container facility options of the Alternative Site Scenario, by the Port Commerce Department;
12. Fleet forecasts and vessel operating costs used in the USACE study;
13. Marginal regional employment and income associated with port activity, per unit cargo, by the Planning Department.

* * *



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Agreement number TBT-10-020: Bayonne Bridge
 Performance of Expert Professional Environmental Best Practices Assessment Service
 on an As-Needed Basis

Attachment D

AKRF, Inc.

Name	Title	Role	Hourly Rate
Project Core Staff			
Conway, Robert	Senior Vice President	Project Core Staff	\$108.97
Cowling, Julia	Senior Vice President	Project Core Staff	\$78.61
Calvert, Christopher	Vice President	Project Core Staff	\$58.17
Doon, Nancy	Senior Technical Director	Project Core Staff	\$52.35
Michel, Christian	Technical Director	Project Core Staff	\$46.86
Nemeth, Elizabeth	Technical Director	Project Core Staff	\$46.89
Rybak, Diana	Professional II	Project Core Staff	\$30.28
Other Staff Anticipated (On As-Needed Basis)			
Bickle, Gary	Senior Vice President	New Jersey permitting / regulations	\$79.33
Jacobs, Fred	Senior Vice President	NEPA / Army Corps permitting	\$79.57
Locke, Anne	Senior Vice President	NEPA / Army Corps permitting	\$67.74
Rosen, Stephen	Senior Vice President	NEPA / Federal noise regulations	\$67.74
Simons, Marcus	Senior Vice President	Hazardous materials / environmental permitting & regs	\$76.92
Cooney, Claudia	Vice President	Historic resources regulations - Sect. 106 / 4(f)	\$61.32
Fränz, Karen	Vice President	Civil engineering / Infrastructure	\$61.32
Keamey, Henry	Vice President	Air quality permitting / regulations	\$64.89
Mesnick, Leslie	Vice President	NEPA / Bridges / Permitting	\$56.38
Nellis, John-Phillip	Vice President	Economist - cost/benefit & regional benefits	\$59.82
Collins, Sandra	Senior Technical Director	Natural resources/NJ & NY permitting	\$61.51
Hammer, Hillel	Senior Technical Director	Air quality permitting / regulations	\$52.49
Kinal, Rebecca	Senior Technical Director	Hazardous materials / environmental permitting & regs	\$52.62
Reynolds, William	Senior Technical Director	Graphics / presentation materials	\$61.08
Szalay, Shandor	Senior Technical Director	Natural resources/NJ & NY permitting	\$52.28
Tajwar, Shabana	Senior Technical Director	Air quality permitting / regulations	\$52.49
Brunner, Kathleen	Technical Director	Hazardous materials / environmental permitting & regs	\$48.71
Comerford, Gary	Technical Director	Air quality permitting / regulations	\$51.25
Crader, Amy Diehl	Technical Director	Historic resources regulations - Sect. 106 / 4(f)	\$36.96
Dallal, Diana	Technical Director	Archaeological resources regulations / agency coord.	\$47.55
Galloway, Ann	Technical Director	Publications specialist	\$45.18
Mack, Kenneth	Technical Director	GIS & mapping	\$46.38
Matic, Jelena	Technical Director	Air quality permitting / regulations	\$44.45
McDonald, Molly	Technical Director	Archaeological resources regulations / agency coord.	\$36.06
Morris, Jennifer	Technical Director	Historic resources regulations - Sect. 106 / 4(f)	\$61.21
Pappalardo, A. Michael	Technical Director	Archaeological resources regulations / agency coord.	\$47.10
Rice, Jerry	Technical Director	Economist - cost/benefit & regional benefits	\$73.69
Riddle, Nathan	Technical Director	Historic resources regulations - Sect. 106 / 4(f)	\$45.43
Ruddock, Allison	Technical Director	Regulatory procedures - NEPA, NY, NJ	\$45.87
Sachwald, Benjamin	Technical Director	NEPA / Federal noise regulations	\$45.87
Schwendt, Axel	Technical Director	Hazardous materials / environmental	\$47.00
Shotzberger, Shawn	Technical Director	Natural resources/NJ & NY permitting	\$45.32
Wu, Weixiong	Technical Director	NEPA / Federal noise regulations	\$53.89



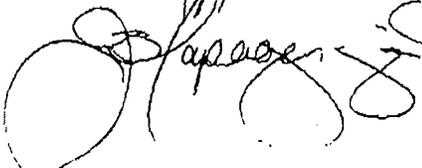
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AKRF, Inc.

<u>Name</u>	<u>Title</u>	<u>Role</u>	<u>Hourly Rate</u>
Abatemarco, Daniel	Senior Professional	NEPA / Federal noise regulations	\$34.90
Bernick, Andrew	Senior Professional	Natural resources/NJ & NY permitting	\$38.87
Cunningham, Suzanne	Senior Professional	Regulatory procedures - NEPA, NY, NJ	\$38.08
Franco, Jennifer	Senior Professional	Air quality permitting / regulations	\$46.24
Inquimboy, Eunice	Senior Professional	Graphics / presentation materials	\$39.63
Lee, Mei Mei	Senior Professional	Regulatory procedures - NEPA, NY, NJ	\$39.09
Mul, Kenneth	Senior Professional	Air quality permitting / regulations	\$32.00
Torrio, Jocelyn	Senior Professional	Economist - cost/benefit & regional benefits	\$33.29
Tucker, Jeanine	Senior Professional	Graphics / presentation materials	\$50.00
Wolff, Alicia	Senior Professional	Regulatory procedures - NEPA, NY, NJ	\$36.52
Anselmo, Kerl	Professional II	Regulatory procedures - NEPA, NY, NJ	\$35.16
Gallagher, Ken	Professional II	Hazardous materials / environmental permitting & regs	\$30.58
Hall, Jay	Professional II	Civil engineering / infrastructure	\$32.18
Kalin, Lucinda	Professional II	Natural resources/NJ & NY permitting	\$27.78
Kleyn, Asya	Professional II	Hazardous materials / environmental permitting & regs	\$27.50
Lacefield, Connor	Professional II	Economist - cost/benefit & regional benefits	\$28.29
Lin, Teresa	Professional II	Air quality permitting / regulations	\$31.05
McMahon, Aubrey	Professional II	Natural resources/NJ & NY permitting	\$31.80
Meade, Elizabeth	Professional II	Archaeological resources regulations / agency coord.	\$28.39
Ovundayi, Olayemi	Professional II	Civil engineering / infrastructure	\$28.75
Schuler, Jordan	Professional II	GIS & mapping	\$30.28
Sharma, Sheveta	Professional II	Air quality permitting / regulations	\$28.85
Thompson, Christian	Professional II	NEPA / Federal noise regulations	\$30.00
Edwards, Kevin	Professional I	Air quality permitting / regulations	\$27.78
Exler, Ross	Professional I	Natural resources/NJ & NY permitting	\$21.00
Sampson, Benjamin	Professional I	Publications specialist	\$25.99
Burbank, Sergei	Technical II	Publications specialist	\$36.85
Eng, Stephen	Technical II	Publications specialist	\$30.88
Momeau, JoLayne	Technical II	Publications specialist	\$24.78
Vega, Rolando	Technical II	Publications specialist	\$41.65
Fox, Jean	Technical I	Publications specialist	\$22.21

Approved by:

 9/3/10