Torres Rojas, Genara

FOI#13803

From: ny@imsinfo.com
Sent: Monday, March 04, 2013 2:24 PM
To: Duffy, Daniel
Cc: Torres Rojas, Genara; Van Duyne, Sheree
Subject: Freedom of Information Online Request Form

Information:

First Name: John
Last Name: Kim
Company: IMS
Mailing Address 1: 945 Hornblend Street Suite G
Mailing Address 2:
City: San Diego
State: CA
Zip Code: 92109
Email Address: ny@imsinfo.com
Phone: 858490-8818
Required copies of the records: Yes

List of specific record(s):
ATTN: Jessica Smith Good afternoon Jessica, Could I receive electronic copies of the following term agreement RFPs for the most recent previous term period? 1.AeronauticalEnvironmentalTechnical 2.Airport Capacity Planning 3.Airport Facility Planning 4.Aviation: Security Services 5.Project Risk Analysis 6.Project Risk Analysis MWBE -Materials Testing Division- 7.Asbestos Lead 8.Electrical Cable TestingAnalysis 9.Pavement Smoothness Testing 10.Traffic Protection Services

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

April 24, 2013

Mr. John Kim
IMS
945 Hornblend Street, Suite G
San Diego, CA 92109

Re: Freedom of Information Reference No. 13803

Dear Mr. Kim:

This is a response to your March 4, 2013 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for copies of records related to the most recent and previous term agreements for the following Request For Proposals: Aeronautical Environmental Technical, Airport Capacity Planning, Airport Facility Planning, Aviation: Security Services, Project Risk Analysis, Project Risk Analysis MWBE - Material Testing Division, Asbestos Lead, Electrical Cable Testing Analysis, Pavement Smoothness Testing and Traffic Protection Services.

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/13803-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

225 Park Avenue South, 17th Floor
New York, NY 10003
T: 212 435 3642
F: 212 435 7555

July 23, 2007

SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL AIRPORT CONSULTING SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2008 THROUGH 2012

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 aviation studies and analyses in any of the following areas: (1) Airport Facility Planning, (2) Aeronautical, Environmental & Technical Services, (3) Airport Capacity Planning, (4) Financial and Business Analyses of Capital Projects, and (5) Security for Newark Liberty International, John F. Kennedy International, LaGuardia, Teterboro Airports, and the Downtown Manhattan Heliport, as requested on "call-in" basis during 2008 through 2012, and as further described in Attachment A, included herewith and made a part hereof. Proposals shall be considered for performance of any one or more of the forgoing categories.

Certain projects to be performed may fall under the Airport Improvement Program (AIP), where funding is provided by the Federal Aviation Administration (FAA). In those cases, FAA terms and conditions are required as part of the subject agreement and are applicable solely for the performance of such services. (See Paragraph 19 of the attached Agreement for a list of regulations.) Proposers not wishing to perform these services are not precluded from submitting a response to this Request For Proposals (RFP). However, please clearly state in your proposal transmittal letter if your firm does not wish to be considered for FAA-funded work.

Attached hereto is a copy of an Authority standard agreement including Attachment A thereto 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 which forms the basis for the submission of Proposals.

I. PROPOSAL FORMAT REQUIREMENTS:

To respond to this Request to Proposals (RFP), the Proposer shall submit a concise proposal in response to the following basic criteria:

A. To be acceptable, this Proposal shall be of no more than **50** pages (single-sided using 12 point or greater font size) not including resumes. The Proposal pages shall be numbered and bound, or in a 3-ring binder, with "Your Firm Name", and **RFP Number 13496** 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. With regard to staff qualifications and experience, subdivide this area into one or more sections based upon specific areas in which you are proposing: (1) Airport Facility Planning, (2) Aeronautical, Environmental & Technical Services, (3) Airport Capacity Planning, (4) Financial and Business Analyses of Capital Projects, and (5) Security.

C. Address Proposal to: The Port Authority of New York and New Jersey, One Madison Avenue, 7th Floor, New York, NY 10010, Attention: RFP Custodian. You are requested to submit one (1) reproducible original and five (5) copies, along with one (1) compact disc copy, of your Proposal for review. Notwithstanding retention of the compact disc, in

case of conflict, the reproducible original of the proposals and the written hard copy Contract, if awarded, 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 requirement may lead to delays in contract awards and contract payments, which shall be the responsibility of the Proposer.

E. Your Proposal should be received in sufficient time so that the Authority receives them **no later than 2:00 p.m. on Monday, August 13, 2007.** 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 shall be turned away and their packages not accepted.

II. SUBMISSION REQUIREMENTS

To respond to this Request for Proposals, provide the following information:

A. In the front of your Proposal, a copy of Attachment B, signed by an officer of your company.

B. In your cover letter, indicate the category(ies) in which your firm is interested in providing services.

C. Include an Organization Chart, identifying Executive, Management and Technical staff who will be assigned to perform the requested services within each of the categories you are proposing.

D. Include the resumes of all full-time personnel of your firm who will be assigned to perform the requested services, indicating the number of years experience with the firm.

E. Specific relevant experience of your firm. Please limit this to a 10-page maximum for each of the three categories listed in Section I.B. above. For all projects referenced, include the name of the company, a contact person and current telephone number for verification purposes.

F. Your proposed management approach for performing the required services, including, but not limited to consideration of the following: responsiveness to the client's needs including keeping the client appraised of the project status; impact of proximity of the firm to the airports involved in this program; overall clarity of the Proposal; and the efforts made by the Consultant to meet the Minority Business Enterprise (MBE) and Woman Business Enterprise (WBE) goals for this project, as well the Disadvantaged Business Enterprise (DBE) goals for federally funded projects.

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

H. ***DO NOT submit any information on cost with your proposal. If your firm is selected to be on the Aviation Department's roster of prequalified firms, for non-federally funded Task Order services cost will be taken into consideration on a "best buy/best value"***

basis through a mini-RFP process. See Exhibit I of the Standard Agreement for terms on compensation. For FAA funded projects, award will be negotiated with the highest rated proposer.

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 standard agreement and its terms and conditions. You should therefore not make any changes in this standard agreement, nor restate any of its provisions in your Proposal or supporting material. ***However, if the Proposer has any specific exceptions, such exceptions should be set forth in a separate letter included with its response to this RFP.*** The Authority is under no obligation to entertain or accept any such specific exceptions. Exceptions raised at a time subsequent to proposal submission will not be accepted. The scope of the tasks to be performed by you are set forth in Attachment A to the Authority's standard agreement.

IV. 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 brief advance notice. The presentation should be limited to 30 minutes, and include the material contained in your proposal. The presentation will be followed by an approximately 30-minute question and answer session. (Proposer's staff providing the presentation shall be led by the proposed Project Manager, who may be supported by no more than five (5) other senior staff members who are also proposed to work on this project.)

V. SELECTION PROCESS:

The selection process by which a firm(s) shall be selected for inclusion on the Aviation Department's "call-in" list and for the performance of the FAA funded services shall include consideration of the following factors (listed in order of importance):

A. The quality and depth of the experience and qualifications of the staff, including subconsultants, who will be performing services hereunder.

B. The extent and quality of experience of the firm and the quality of similar services provided to others including the demonstrated ability to complete the services in accordance with the project schedules.

C. The Consultant's proposed management approach, including DBE/MBE/WBE participation, for the performance of services hereunder.

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, Suspension, Debarment, Disqualification, Pre-qualification Denial or Termination, etc.; Disclosures of Other

Required Information" and "Non-Collusive Bidding And Code of Ethics Certification; Certification of No Solicitation Based on Commission, Percentage, Brokerage, Contingent Fee or Other Fee" (a copy of the agreement is included herewith). The selected consultant shall upon executing said agreement, at time of award, be deemed to have made the certifications contained therein unless said consultant submits a statement with the agreement explaining why any such certification(s) cannot be made.

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.

Your attention is directed to Paragraph 18 of the Authority's Standard Agreement in which the Chief Engineer has stated the goals for Minority Business Enterprise 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.

After a review of all proposals received, and oral presentations if applicable, the Authority will forward two copies of the Agreement and Attachment A thereto to the selected firm who shall sign and return both copies. The return of one copy executed by the Authority will effectuate the Agreement.

Should you have any questions, please e-mail them to Ms. Mary Lou Rivera, Senior Contract Specialist at mlrivera@panynj.gov. All questions must be received at least three (3) working days prior to the proposal due date. Neither Ms. Rivera, nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate. There shall be no compensation for proposal preparation or presentation.

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

The Authority reserves the unqualified right, in its sole and absolute discretion, to reject all Proposals, to waive defects in proposals, to undertake discussions and modifications with one or more consultants 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.

Sincerely yours,

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

Attachments

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL AIRPORT CONSULTING SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2008 THROUGH 2012

I. BACKGROUND

The Port Authority of New York and New Jersey owns or operates pursuant to lease from the cities of New York and Newark, four airports – Newark Liberty International, John F. Kennedy International, LaGuardia Teterboro and Steward International Airports – and the Downtown Manhattan Heliport. Together they comprise one of the largest airport systems in the world.

II. SCOPE OF WORK

The services of the Consultant shall generally consist of performing aviation related studies and analyses. In performance of this work the Consultant shall prepare draft and final written reports documenting findings and recommendations as appropriate, and conducting presentations as required. These services shall be performed in the following areas:

A) Airport Facility Planning
B) Aeronautical, Environmental & Technical Services
C) Airport Capacity Planning
D) Financial and Business Analyses of Capital Projects
E) Security.

II. DESCRIPTION OF CONSULTANT'S TASKS

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

A. Airport Facility Planning

1. air cargo handing and facility analyses
2. airport and terminal simulation modeling
3. airport land use and site planning
4. baggage handling systems including use of RFID technology, transfer/interline baggage handling and remote baggage handling.
5. biometric and other new technologies impact on overall arrival process including government clearance, baggage claim and airport exit
6. biometric and other new technologies impact on self service and overall departure process including check-in, screening and aircraft boarding
7. building condition surveys
8. concession planning/operations
9. passenger forecasting
10. passenger use surveys and data collection
11. ramp-side access (gates, aprons, capacity, congestion)
12. vehicular and pedestrian signage

B. Aeronautical, Environmental & Technical Services.

1. air and water quality studies
2. air traffic control standards and procedures
3. air traffic data collection, including on time performance
4. airline operations by aircraft and/or scheduling/destination
5. airport aircraft compatibility analyses
6. airside operations and fleet mix
7. airspace interaction
8. deicing
9. ground service equipment (GSE).
10. navigational aid analyses
11. noise contours and community complaints/presentations
12. obstruction analyses
13. radar capabilities and modernization
14. runway/taxiway configuration and geometry
15. tracking on airport aircraft movements and gate hold to support stranded passengers initiatives

C. Airport Capacity Planning:

1. assess environmental impacts of capital projects
2. cargo planning & design standards supporting capital plan
3. construction scheduling and staging
4. economic impact of operational restrictions
5. infrastructure analyses and asset management
6. landside access (auto parking, terminal frontage, roadways, people-movers)
7. passenger terminal planning & design standards supporting capital plan
8. project coordination for facility security initiatives

D. Financial and Business Analyses of Capital Projects

1. air service (new carriers, destinations, and scheduling) intelligence
2. aviation market strategies
3. business feasibility studies
4. financial advisory services

E. Security

1. airport needs and evaluation
2. modeling, alternative studies, and policy analysis
3. security operations and inspections - best practices
4. technology implementation analysis

VI. CONDITIONS AND PRECAUTIONS

A. General

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

B. Work Areas

The Consultant shall limit inspection work to the areas necessary for the performance of such inspection and shall not interfere with the operation of the facility without first obtaining specific approval from the Director.

During all periods of time when not performing operations at the work site, the Consultant shall store all equipment being used for the inspection in areas designated by the Director and shall provide all security required for such equipment.

The Consultant shall not permit any objects or pieces of equipment to lie unattended on sidewalks, roadways, runways, taxi-lanes or structures at any time.

C. Work Hours

The Consultant shall perform work at the site between the hours of 8:00 A.M. and 4:00 P.M., Monday through Friday, unless otherwise directed by the Director.

In any case, no work shall be performed at the site on a legal holiday of either the State of New York or the State of New Jersey, unless otherwise directed by the Director.

* * *

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL AIRPORT CONSULTING SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2008 THROUGH 2012

I. BACKGROUND

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10. passenger use surveys and data collection
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In any case, no work shall be performed at the site on a legal holiday of either the State of New York or the State of New Jersey, unless otherwise directed by the Director.

* * *

P.A. Agreement #*-07-*****
DATE

FIRM
***
****

Attention: CONTACT, TITLE

SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL AIRPORT CONSULTING SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2008 THROUGH 2012

Dear M*. ***:

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

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

This agreement will be signed by you and the Director of the Procurement Department. As used herein and hereafter, the "Director" means the Authority's Director, Aviation Department, acting either personally or through his 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, I have designated ***, to act as my duly authorized representative. The Administrator for this project is ***, tel. ****.

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

3. When the services to be performed by the Consultant include the preparation of computer aided design and drafting (CADD) documents, said documents must be prepared using the latest available revision of Autodesk's "AUTOCAD" software or Integraph's "Microstation" software or as directed by the Director prior to the performance of specific services and shall be submitted to the Authority on compact discs, flash drives, or as otherwise required.

4. The Consultant shall meet and consult with Authority staff as requested by the Director in connection with the services to be performed herein. Any items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Director. The Director may disapprove, if in his sole opinion the said items are not in accordance with the requirements of this Agreement or prevailing standards of architectural or engineering practice for marine facility work. 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 his responsibility under this Agreement to furnish the requested services in accordance with an agreed upon schedule and in accordance with sound engineering principles.

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. See Exhibit I.

7. For non-FAA funded services, 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 or billing rates 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.

8. 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 Administrator. Each invoice shall bear your taxpayer number and the purchases 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.

9. 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. Lump sum amounts shall be pro-rated based on percentage of services performed.

10. 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.

11. 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 .

12. 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.

13. 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.

14. Mylars of the contract drawings, originals of technical specifications, estimates, reports, records, data, charts, documents, renderings, computations, computer tapes or disks, and other papers of any type whatsoever, whether in the form of writing, figures or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of the Authority, and the Authority shall have the right to use or permit the use of them and 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, and to indemnify the Port Authority against claims of patent infringement arising form services performed or equipment supplied by the Consultant. 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.

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

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

17. 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.

18. 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 Director 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 Regional and Economic Development, Small Business Programs.

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 Regional and Economic Development, Small Business Programs for certification the names of MBE/WBE firms he proposes to use who are not on the list of certified MBE/WBE firms.

19. For federally funded projects, the following regulations apply:

A. The requirements for the Disadvantaged Business Enterprises (DBE) program are set forth in Department of Transportation Regulation, 49 CFR Parts 23 and 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs: Final Rule" (is attached as Exhibit B) and is incorporated into this contract by reference.

B. The current PA overall goal for DBE participation in federally assisted contracts is **17%.** This goal is to be met by use of two strategies: **12%** through Race-neutral means and **5%**

through Race-conscious means. These goals are in effect until **September 30, 2007** and are subject to annual review and adjustment as appropriate. Therefore revised DBE goals may apply if the contract is executed after that date.

C. This regulation applies to all contracts that include any federal funds. Therefore the consultant agrees to include these clauses in all contracts for this project and to enforce such clauses. With regard to paragraph 2.) below, the Consultant agrees to pay each subcontractor within 7 days of receipt of payment from the Port Authority.

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

1) *The Consultant or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract and shall carry out the applicable requirements of Department of Transportation Regulation,* 49 *CFR Parts* 23 *and* 26, *"Participation by Disadvantaged Business Enterprises in Department of Transportation Programs: Final Rule"* (49 *CFR Part* 26) *in the award and administration of DOT assisted contracts. This regulation is incorporated into this contract by reference. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as The Port Authority of New York and New Jersey (herein Port Authority) deems appropriate. This provision shall likewise apply to each sub-consultant at each tier.*

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

3) *The Department of Transportation regulation,* 49 *CFR parts* 23 *and* 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Programs: Final Rule, (CFR 49Part* 26) *is incorporated into this contract by reference.*

4) *The* ***current*** *Port Authority overall goal for DBE participation in federally assisted contracts is* ***17%.*** *This goal is to be met by use of two strategies:* ***12%*** *through Race-neutral means and* ***5%*** *through Race-conscious means. Race-neutral means are described in CFR* 49 *Part* 23 & 26, *Paragraph* 26.51. *The Race-conscious goal is a contract goal. These goals are in effect until September 30, 2007 and are subject to annual review and adjustment as appropriate. Therefore the pertinent DBE goals must be obtained from the Port Authority before executing any consultant and/or construction contracts after that date.*

5) *The obligation of the Consultant is to make good faith efforts to meet the Race-conscious or contract goal. The contractor can demonstrate that it has done so by meeting the contract goal or documenting good faith efforts. See Paragraph* 26.53 *and Appendix A of CFR 49Part* 26 *for descriptions and discussions of good faith efforts. The Port Authority is responsible for determining whether a contractor that has not met the contract goals has documented sufficient good faith efforts to be regarded as responsible.*

6) *Assistance is available from The Port Authority Office of Business and Job Opportunity (OBJO) to identify DBE firms and to answer any questions related to the preparation and submission of the DBE Participation Plan. In addition, the Authority maintains a computerized directory identifying all firms certified as DBE. The directory lists the firm's name, certification status, address, responsible officer/owner, telephone number and specialty trade. This directory is revised annually to ensure data accuracy and integrity. Information pertaining to this directory can be obtained through telephone requests to The Port Authority of NY & NJ; Office of Business and Job Opportunity, 233 Park Avenue South 13th Floor, New York, NY 10003* (212) 435-7808. *The Authority maintains a computerized directory identifying all ready, willing and able firms eligible to bid as DBEs. The directories reside on the UCP websites of both New York & New Jersey at the following addresses:*

New Jersey: *<http://www.bipincwebapps.com/nynj/biznet/>*
New York: *<http://www.dot.state.ny.us/crb/registry.html>*

7) *Consultants are directed to CFR* 49 *Part* 23 & 26, *Paragraph* 26.55 *"How is DBE participation counted toward goals?" Sub-paragraph (e) which states that 1 00% of the cost of materials or supplies obtained from a DBE manufacturer may be counted toward the DBE goals but only 60% of the cost of materials or supplies purchased from a DBE regular dealer may be counted toward the goals. More detailed information may be found in the regulation.*

8) A Unified Certification Program for each state will be put into effect by March 4, 2002. This program is described in CFR 49 Part 23 & 26, Paragraph 26.81.

20. NOTIFICATION OF SECURITY REQUIREMENTS

The Port Authority of New York & New Jersey 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;
    - 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.

21. 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 there 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.

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

22. COMMERCIAL 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 contract, 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. In addition, the policy shall include the Authority and Port Authority Trans Hudson Corp (PATH) as an additional insured and shall contain a provision that the policy may not be canceled, terminated or modified without thirty days written advance notice to the Administrator 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 cross-liability language providing severability of interests 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 statues 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) Endorsement to eliminate any exclusions applying to the underground property, explosion and collapse hazards.

b) Endorsement to eliminate any exclusions on account of ownership, maintenance, operation, use, loading or unloading of watercraft.

c) Coverage for work within 50 feet of railroad.

B. Workers' Compensation Insurance:

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

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 – $ 2 million, covering acts, errors, mistakes, and omissions arising out of the work or services performed by Consultant, or any person employed by Consultant.

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 Administrator.

1) Upon request of the 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 contract. The insurance requirements are not a representation by the Authority as to the adequacy of the insurance to protect the Consultant against the obligations imposed on them by law or by this or any other Contract.

3) The Authority may at any time during the term of this agreement change or modify the limits and coverages of insurance. Should the modification or change results in an additional premium, The Port Authority, Risk Manager, Risk Management can consider such cost as an out-of-pocket expense.

23. 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 a 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.

24. 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; and

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.

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.

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.

25. 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 proposal 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 a agreement on which it has proposal 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.

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

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.

In addition, during the term of this agreement, the Consultant shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Authority).

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

27. 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 a 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 a 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 a 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 on 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.

28. DEFINITIONS

As used in sections 24 to 28 above, the following terms shall mean:

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

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

29. 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.

30. 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.

31. Exhibit I forms a part of this Agreement.

32. 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

By: _____
Andrea Roitman
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 "32" to "33" and insert a new Paragraph "32" as follows:

32. This Agreement shall be governed by and construed in accordance with the Laws of the State of New York.

EXHIBIT I

COST PROPOSAL CONDITIONS

I. For all Consultant services that are not federally funded, the following shall apply:

Limit on Compensation

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 him 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.

1. Total compensation under this agreement for non-FAA funded services shall in no event exceed $**** without further authorization from the Director.

2. 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 1. above. Subject to the terms and conditions below, travel time is not reimbursable under subparagraphs A, B, and C hereunder.

A. When the method of compensation hereunder, as approved in advance and in writing by the Director is on an hourly rate basis, the Consultant shall be compensated at an amount equal to *.* times the actual salaries paid by you to professional and technical personnel but not partners, 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 analysis shall clearly indicate any of your employees, proposed by you to perform the requested services that are former Port 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 in a) accordance with the program of periodic merit and cost of living increases normally administered by it, b) are warranted by increased costs of providing services under this Agreement, c) are based upon increases in salaries and billing rates which are generally applicable to all of Consultant's clients and d) are in accordance with the Authority's salary rate increase policy for the current year for Authority employees possessing comparable skills and experience. If during any calendar year, 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. When the method of compensation hereunder, as approved in advance and in writing by the Director is on an hourly rate basis, the Consultant shall be compensated at 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, 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 Administrator 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 his services, as part of any request for approval of the subconsultant.

D. When the method of compensation hereunder, as approved in advance and in writing by the Director is on an hourly rate basis, 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 his personal vehicle to provide services within the Port District, the Consultant shall be reimbursed for travel expenses beyond normal commuting costs at a rate not higher than the Annual Federal Mileage Reimbursement Rate (as determined by the 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 advanced in writing by the Director. If the Consultant chooses to travel each day to an assignment, where it would be more economical to take a hotel room near the assignment, the maximum reimbursable travel expenses shall not exceed the daily cost for meals and lodging. Reimbursable travel as defined herein shall be limited to one round trip per week's service except when otherwise approved in advance and 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&ooid=16365&contentId=17943&pageTypeId=8203&contentType=GSA_BASIC&programPage=%2Fep%2Fprogram%2FgsaBasic.jsp&P=MTT

Non-Contiguous US (Hawaii, Guam, etc) Dept of Defense Website:
http://www.state.gov/m/a/als/prdm/

Foreign Per Diem Rates at Dept of State Website:
http://www.state.gov/m/a/als/prdm/c16476.htm

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" shall mean that area located within a radius of 25 miles from the Statue of Liberty.

"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 architects, engineers, designers, drafters or other professional and technical employees of the Consultant for time actually spent directly in the performance of technical services hereunder and recorded on daily time records which have been approved by the employee's immediate supervisor, excluding the time of any employee of the Consultant to the extent that the time of such employee of the Consultant is devoted to typing/word processing, stenographic, clerical or administrative functions. Such functions shall be deemed to be included in the multiplier referred to in subparagraph A above.

II. For all Consultant services that fall under the Airport Improvement Program, where funding is provided by the Federal Aviation Administration, the following shall apply:

Lump Sum

1. As full compensation for all your services and obligations in connection with the performance of work as defined in Attachment **, the Authority will pay you the amounts set forth on the dates or at the milestones set forth therein for a total of $****, hereinafter also known as the "Lump Sum".

2. Amounts shall be paid by check to the account you specify within thirty (30) days of receipt of an invoice provided the Administrator has confirmed that the specified milestones as outlined in Attachment ** have been reached for services rendered and has received from you such records and receipts as the Administrator may reasonably request. Each invoice shall bear your taxpayer number and the Purchase Order Number supplied by the Authority. 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 which shall be calculated by reference to Attachment **.

July 27, 2007

SUBJECT: RFP #113496 – PERFORMANCE OF EXPERT PROFESSIONAL AIRPORT CONSULTING SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2008 THROUGH 2012 – ADDENDUM

Dear Sir or Madam:

The Port Authority of New York & New Jersey hereby offers to amend the subject Request for Proposal (RFP) letter, dated July 23, 2007, as follows:

The included is a question received from an RFP recipient and the corresponding answer, as provided by the Authority.

"Can we participate as a subcontractor for Areas 4 and 5 while submitting as a prime for Areas 1, 2, and 3? (Conversely, can another firm submit as a prime for Area 5 while submitting as a subcontractor for Area 3?)"

Response: Subcontracting is permitted. Firms may propose as primes for certain categories and as subconsultants in other categories at their discretion.

If you have any questions, please contact Ms. Mary Lou Rivera at mlrivera@panynj.gov.

Sincerely yours,

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

July 30, 2007

SUBJECT: RFP #113496 – PERFORMANCE OF EXPERT PROFESSIONAL AIRPORT CONSULTING SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2008 THROUGH 2012 – ADDENDUM #2

Dear Sir or Madam:

The Port Authority of New York & New Jersey hereby offers to amend the subject Request for Proposal (RFP) letter, dated June 23, 2007, as follows:

In the first paragraph of the subject RFP letter, sixth line, after the word "Teterboro", please include ", Stewart International".

In the first paragraph of the Attachment A, third line, replace "...LaGuardia and Teterboro" with "LaGuardia, Teterboro and Stewart International".

If you have any questions, please contact Ms. Mary Lou Rivera at mlrivera@panynj.gov.

Sincerely yours,

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

August 7, 2007

SUBJECT: RFP #13496 – PERFORMANCE OF EXPERT PROFESSIONAL AIRPORT CONSULTING SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2008 THROUGH 2012 – ADDENDUM #3

Dear Sir or Madam:

The Port Authority of New York & New Jersey hereby offers to amend the subject Request for Proposal (RFP) letter, dated July 23, 2007, as follows:

1. *Can a firm submit both as a subconsultant as well as a prime for the same category?*

   Answer: Yes

If you have any questions, please contact Ms. Mary Lou Rivera at mlrivera@panynj.gov.

Sincerely yours,

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

August 8, 2007

SUBJECT: RFP #13496 – PERFORMANCE OF EXPERT PROFESSIONAL AIRPORT CONSULTING SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2008 THROUGH 2012 – ADDENDUM #4

Dear Sir or Madam:

The Port Authority of New York & New Jersey hereby offers to amend the subject Request for Proposal (RFP) letter, dated July 23, 2007, as follows:

The included are questions received from RFP recipients and corresponding answers, as provided by the Authority.

1. "The RFP mentions that the approved MBE/DBE/WBE list would be provided upon request. Could you please forward the list to us?"

Answer: To receive a current list of certified MBE/WBE/DBE firms, please contact Ms. Cecelia Wallace from the Office of Business and Job Opportunity at cwallace@panynj.gov. Your email should include the name of your firm, mailing address, contact person's name and telephone number.

If you have any questions, please contact Ms. Mary Lou Rivera at mlrivera@panynj.gov.

Sincerely yours,

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

August 10, 2007

SUBJECT: RFP #13496 – PERFORMANCE OF EXPERT PROFESSIONAL AIRPORT CONSULTING SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2008 THROUGH 2012 – ADDENDUM #5

Dear Sir or Madam:

The Port Authority of New York & New Jersey hereby offers to amend the subject Request for Proposal (RFP) letter, dated July 23, 2007, as follows:

The included are questions received from RFP recipients and corresponding answers, as provided by the Authority.

1. *"I am requesting the list of qualified vendors for the previous aviation program."*

Answer: The following firms were on the previous "call-in" program list:

- CH2M Hill
- DMJM+Harris, Inc.
- Edwards and Kelcey
- Frasca & Associates, L.L.C.
- Landrum & Brown
- Jacobs Consultantcy (formerly Leigh Fisher)
- PB Americas, Inc. (formerly Parsons, Brinkerhoff, Quade & Douglas)
- Ricondo & Associates
- The Louis Berger Group, Inc.
- Unison-Maximus, Inc.
- URS Corporation Group Consultants

2. *"In Section D, Staff Resumes, of our submittal, does the Port Authority want to receive duplicate resumes in separate subdivided sections if the same staff member would be assigned to more than one category of service (e.g., Airport Facility Planning and Airport Capacity Planning) in order to be responsive to the directions provided in Paragraph I.B of the RFP that state "With regard to staff qualifications and experience, subdivide this area in to one or more sections based on the specific areas that you are proposing."*

Answer: Resumes need not be duplicated when the same staff is proposed for different service areas (categories). Identify the staff for each service area, and refer back to the resume.

If you have any questions, please contact Ms. Mary Lou Rivera at mlrivera@panynj.gov.

Sincerely yours,

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

October 6, 2010

SUBJECT: REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL PROJECT RISK ANALYSIS AND RELATED PROJECT MANAGEMENT SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2011, 2012, 2013 (RFP #22655)

Dear Sir or Madam:

The Port Authority of New York and New Jersey, hereinafter referred to as the "Authority", hereby invites your Proposal for furnishing expert professional project risk analysis and related project management services as requested on a "call-in" basis during 2011, 2012, and 2013, 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 subject services.

Attached hereto is a copy of an Authority Standard 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 to be performed by you are set forth in Attachment A.

I. PROPOSER REQUIREMENTS

The Authority will consider only those firms who are able to demonstrate that they possess a minimum of five (5) years of experience in Project Risk Analysis and related project management services for "Major Infrastructure Construction Programs". Major Infrastructure Construction Programs are defined as those exceeding $20 million in construction value of payments to contractors.

II. PROPOSAL FORMAT REQUIREMENTS

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

A. To be acceptable, this Proposal shall be of no more than twenty-five (25) pages (single-sided using 12 point or greater font size) not including resumes. This limit does not include Section III, items: A, B, F, G, H, I, and J below. Each resume shall be 2-page maximum, single-sided using 12 point or greater front size. Product brochures and other sales literature will not be accepted as substitutes for written responses to this RFP. The Proposal pages shall be numbered and bound, or in a 3-ring binder, with "Your Legal Firm Name" and **RFP Number 22655** 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.

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) original reproducible original, six (6) 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. Each submission to the Authority, including any return address label, information on the compact disc, information on the reproducible original and copies of the Proposal, shall indicate the Proposer's **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 Proposal should be forwarded in sufficient time so that the Authority receives it **no later than 2:00 P.M.** on November 1, 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 Port Authority's offices. Messengers without proper identification shall be turned away and their packages not accepted.

III. SUBMISSION REQUIREMENTS

To respond to this Request for Proposals, 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. Qualification and Experience of Staff:

List the name(s), title(s) and resumes of personnel who may be assigned to perform any services requested. Identify subconsultants, if any, and indicate their experience and qualifications. The information provided shall be sufficient to demonstrate that the proposed staff possesses the required experience as listed herein for performance of the contemplated services. Include information on the following:

1. Provide a profile of the Program/Project Manager(s) as required to demonstrate the main projects the individual has managed in the past five (5) years, performing the service(s) as stipulated in Attachment A. Provide a resume that details his or her educational background, chronological history of employment, and any relevant licenses and/or certifications.

2. Experience of other Key Personnel

   Attach a detailed resume for each individual that includes his/her educational background, chronological history of employment, relevant licenses and certifications. The resumes should clearly identify the years of experience in the field related to the tasks for which the individual will be responsible.

Prepare a table that provides a summary of project experience for key personnel on this project with respect to number of projects and project costs.

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.

E. A detailed description of the proposed management approach 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 client apprised of the project status; and your proposed approach to ensuring the quality of the work product to be produced.

F. The name(s), title(s) and hourly rate(s) for engineering and technical personnel who will be assigned to perform any services requested. Indicate billing rates for partners or principals and actual hourly rates for all other billable employees. Provide a company policy for compensation for premium pay (i.e. holidays, shift differentials, regular days, weekends and night work or union required payments must be included). Typical job titles may include, but are not limited to, the following:

1. Principal or Partner (Billing Rate)
2. Engineers (Actual Hourly Rate)
3. Technicians (Actual Hourly Rate)

The "multiplier" referred to in the second and fifth lines 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.

G. Your attention is directed to Paragraph 22 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.

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 staff, including subconsultants, performing services hereunder;

B. qualifications and experience of the firm; and

C. 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 his Proposal explaining why any such certification(s) cannot be made. Such a submission shall be submitted in a separate envelope along with your Proposal, clearly marked "CERTIFICATION STATEMENT."

It is Authority policy that its contractors and vendors comply with the legal requirements of the States of New York and New Jersey. Your attention is therefore called to New York State's requirements that certain contractors, affiliates, subcontractors and subcontractors' affiliates register with the New York State Department of Taxation and Finance for the purpose of collection and remittance of sales and use taxes. Similarly, New Jersey requires business organizations to obtain appropriate Business Registration Certificates from the Division of Revenue of the State's Department of the Treasury.

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

Should you have any questions, please contact Tracy Tiernan, Senior Contract Specialist, by email at ttiernan@panynj.gov. All such emails must have "**RFP 22655**" in the subject line. The Authority must receive all questions no later than 4:00 P.M. on October 25, 2010. Neither Ms. Tiernan 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.

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 www.panynj.gov. Also, Proposers are encouraged to periodically access the Authority website at http://www.panynj.gov/business-opportunities/bid-proposal-advertisements.html for RFP updates and addenda.

Sincerely yours,

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

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL PROJECT RISK ANALYSIS AND RELATED PROJECT MANAGEMENT SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2011

I. BACKGROUND

The Port Authority of New York and New Jersey (the "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.

II. SCOPE OF WORK

The services of the Consultant shall generally consist of providing expert cost and schedule risk estimating analysis and related project management services on an "as-needed" basis.

Required services may include, but are not limited to, the development of detailed project schedules; validation of project scope definitions, cost estimates and project schedules; facilitation of risk identification, analysis and mitigation strategy workshops; development of project cost and schedule risk models and analysis; and preparation of final risk management report, accompanying models and work products. The typical time frame for a project risk analysis effort is two (2) months but may vary depending on the specific project.

The services of the Consultant shall predominately be performed at the Authority's facilities within the Port District, but may in some instances be performed at the Consultant's office(s).

III. DESCRIPTION OF THE CONSULTANT'S TASK

Specific tasks to be performed by the Consultant may include but shall not be limited to the following:

TASK A – PREPARATION MEETING

The Consultant shall facilitate a preparation/kick-off meeting to organize and accomplish the following:

1. Review the existing project documentation and project scope of work;
2. Review the Engineer's Estimate (construction cost estimate);
3. Review the project schedule;
4. Recommend the composition of the risk analysis team who shall identify and score project risks;
5. Recommend schedule for the project risk analysis effort identify milestones and deliverables for the Project Risk Analysis report.

TASK B – COST ESTIMATE AND SCHEDULE REVIEW

The Consultant shall review project cost and schedule documentation independently. After the independent review, the Consultant shall organize a session with appropriate Authority staff to review and validate base cost and schedule estimates. Base cost and schedule validation shall include, but shall not be limited to the following:

1. Confirm project cost and schedule match documented project scope;
2. Confirm unit prices are valid;
3. Identify and remove any contingencies.

The Consultant may be required to develop project schedules to the level of detail required to assess project schedule risks. The Authority's current standard tool for development and maintenance of project schedules is Oracle's Primavera P6, Version 7.0.

TASK C – PROJECT RISK IDENTIFICATION WORKSHOP

The Consultant shall facilitate the project risk identification workshop where project risks shall be identified and quantified. The Consultant shall be responsible for the following activities:

1. Eliciting information from subject matter experts and project team participants relative to project risks, likelihood of occurrence, and estimated impact on project cost and schedule.
2. Recording project risks and documenting them in the risk register template provided by the Authority with sufficient detail to allow for later analysis and use in the Project Risk Analysis report.
3. Facilitating risk scoring used to determine appropriate project cost and schedule contingencies.

TASK D – RISK ANALYSIS AND RISK MODELING

The Consultant shall model each of the risks in the risk matrix associating the cost elements in the Engineer's estimate and the schedule elements with activities in the project schedule. Project cost and schedule risks impact assessment shall be through the use of a Monte Carlo simulation method using the cost and schedule model to be developed by the Consultant. The Consultant shall summarize the findings from the Project Risk Identification Workshop.

The Authority's current standard tool for estimating cost impacts is Palisades @Risk Add-In to Microsoft's Excel, Version 5.5.1. The current standard tool for estimating schedule impacts is Oracle's Primavera Risk Analysis, Version 8.6.

TASK E – RISK MITIGATION WORKSHOP

The Consultant shall facilitate a follow-up session with participants from the Risk Identification Workshop to present the preliminary results from Task D and identify feasible risk mitigation strategies and associated costs. The Consultant shall be responsible for the following activities:

1. Presentation of the preliminary results of the risk analysis and risk modeling effort.
2. Eliciting risk mitigation strategies from subject matter experts and project team participants including applicable risk events, likelihood of effectiveness (impact on project cost, schedule and/or scope), estimated risk mitigation costs, and durations for implementation.

TASK F – PROJECT RISK MANAGEMENT REPORT

Two weeks after the final workshop, the Consultant shall provide a preliminary draft report to workshop participants for review and comment. The Consultant shall follow up with the workshop participants in one week for comments. Within one week of receiving comments, submit a final draft report incorporating the requested changes.

The final draft Project Risk Management Report shall consist, at a minimum, of the following:

- Executive Summary
- Project Description and Objectives
- Project Workshop Notes and Key Assumptions
- Completed Risk Register
- Model Results
- Risk Mitigation Strategies
- Discussion of Findings

The final report shall be provided in both electronic and hardcopy format. In addition, the Consultant shall provide electronic copies of the risk model and its components suitable for use with the Authority's current standard software tools (@Risk, Primavera Risk Analysis and Primavera P6).

TASK G – PROJECT RISK ANALYSIS SERVICES AND RELATED PROJECT MANAGEMENT SUPPORT

The Consultant may be required to provide ancillary related project management support activities as follows:

1. Conducting briefings for executive staff;
2. Conducting biddibility and/or constructability reviews;
3. Maintaining and updating the existing Project Management Manual;
4. Providing project control functions through the use of Primavera currently used by the Authority;
5. Providing project management training/workshop sessions.

* * *

P.A. Agreement #*-11-*****
DATE

FIRM NAME
ADDRESS
CITY, STATE ZIP

Attention: CONTACT, TITLE

SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL PROJECT RISK ANALYSIS AND RELATED PROJECT MANAGEMENT SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2011

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 project risk analysis and related project management services as more fully set forth in Attachment A, which is attached hereto and made a part hereof, on a "call-in" basis during 2011.

At the Authority's discretion, the Consultant may be required to enter into a new agreement for performance of said services for each of the following two (2) years (2012 and 2013), in which case such new agreement(s) shall be identical to this Agreement unless otherwise mutually agreed upon by the parties. Subsequent agreements shall be sent to the Consultant as noted above at least 30 days prior to the end of the current term.

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 "COO" means the Authority's Chief Operating Officer, acting either personally or through his 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 COO has designated Fredrick Redd, Program Director, PMO, to act as his duly authorized representative. The Project Manager for this project is Luis Rocha, at (973) 565-7501, or e-mail address lrocha@panynj.gov.

3. Your services shall be performed as expeditiously as possible and at the time or times required by the COO. 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 COO for approval an estimated cost and staffing analysis of such services to the Authority. Approval of such cost and direction from the COO 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 COO and you shall submit to him 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 COO 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 COO 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 COO. The COO may disapprove, if in his 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 COO, 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 his 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 COO. 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. For work performed at the Consultant's offices, the Consultant shall be compensated at an amount equal to *.** times the actual salaries paid by you to professional and technical personnel (but not partners or principals) for time actually spent by them in the performance of services hereunder; for work performed at Authority office(s), as mutually agreed upon, the Consultant shall be compensated at an amount equal to *.** times the actual salaries paid by you to professional and technical personnel (but not 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, as proposed by you to perform the requested services, that are former Authority employees.

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

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 COO 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, the number assigned to the work hereof, billing rates and salaries of 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 adjustment 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) are based upon increases in salaries and billing rates which are generally applicable to all of Consultant's clients, and d) are in accordance with the Authority's salary rate increase policy for the current year for Authority employees possessing comparable skills and experience. If during any calendar year, 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 in all cases be finally determined by the COO or his designee, in their sole and absolute discretion.

Notwithstanding the above, the multipliers set forth in the second and fifth lines 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 partners or principals, project/program management or other professional and technical employees 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 COO 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 COO. 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 COO 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 COO, 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 COO 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 his personal vehicle to provide services within the Port District, the Consultant shall be reimbursed for travel expenses beyond normal commuting costs at a rate not higher than the Annual Federal Mileage Reimbursement Rate (as determined by the United States General Services Administration - *http://www.gsa.gov/portal/content/100715*) 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 COO. The cost for all meals and lodging on approved overnight trips are limited to the amounts established by the United States General Services Administration (GSA) for that locality.

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

You shall obtain the COO'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 COO. Upon receipt of the foregoing, the COO 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 COO, 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 COO 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 COO. Such approval may be withheld if for any reason the COO 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 COO, 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 COO.

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

property now or hereafter owned or operated by the Authority but such license shall not be otherwise transferable.

18. You shall promptly and fully inform the COO 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 COO. 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 http://www.panynj.gov/business-opportunities/sd-mini-profile.html. The Consultant shall 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 an endorsement that the policy may not be canceled, terminated or modified without thirty (30) days written advance notice to the Project Manager as noted below. Moreover, the Commercial General Liability policy shall not contain any provisions (other than a Professional Liability exclusion, if any) for exclusions from liability other than provisions or exclusions from liability forming part of the most up to date ISO form or its equivalent unendorsed Commercial General Liability Policy. The liability policy (ies) and certificate of insurance shall contain separation of insured condition (cross-liability) and severability of interests provisions so that coverage will respond as if separate policies were in force for each insured.

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

2) Additional Coverages: The Consultant shall have the policy endorsed when required by the COO 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 COO 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, including but not limited to the 30 day cancellation notice endorsement 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), 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 COO, 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 COO in writing of such situation giving the full details thereof. Unless the Consultant receives the specific written approval of the

COO, 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 COO 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 COO to be no longer appropriate because of such preclusion, then the COO 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 _____

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.

October 6, 2010

SUBJECT: REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL PROJECT RISK ANALYSIS AND RELATED PROJECT MANAGEMENT (M/WBE) SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2011, 2012, 2013 (RFP #22656)

Dear Sir or Madam:

The Port Authority of New York and New Jersey, hereinafter referred to as the "Authority", hereby invites your Proposal for furnishing expert professional project risk analysis and related project management (M/WBE) services as requested on a "call-in" basis during 2011, 2012, and 2013, 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 subject services.

Firms responding to this Request For Proposals (RFP) must be certified by the Authority as a Minority Business Enterprise (MBE) and/or Woman-Owned Business Enterprise (WBE) and shall be located in the State of New York or New Jersey.

Attached hereto is a copy of an Authority Standard 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 to be performed by you are set forth in Attachment A.

I. PROPOSER REQUIREMENTS

The Authority will consider only those firms who are able to demonstrate that they possess a minimum of five (5) years of experience in Project Risk Analysis and related project management services for Major Infrastructure Construction Programs. Major Infrastructure Construction Programs are defined as those exceeding $20 million in construction value of payments to contractors.

II. PROPOSAL FORMAT REQUIREMENTS

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

A. To be acceptable, this Proposal shall be of no more than twenty-five (25) pages (single-sided using 12 point or greater font size) not including resumes. This limit does not include Section III, items: A, B, F, G, H, I, and J below. Each resume shall be 2-page maximum, single-sided using 12 point or greater front size. Product brochures and other sales literature will not be accepted as substitutes for written responses to this RFP. The Proposal pages shall be numbered and bound, or in a 3-ring binder, with "Your Legal Firm Name" and **RFP Number 22656** 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.

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) original reproducible original, six (6) 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. Each submission to the Authority, including any return address label, information on the compact disc, information on the reproducible original and copies of the Proposal, shall indicate the Proposer's **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 Proposal should be forwarded in sufficient time so that the Authority receives it **no later than 2:00 P.M**. on November 1, 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 Port Authority's offices. Messengers without proper identification shall be turned away and their packages not accepted.

III. SUBMISSION REQUIREMENTS

To respond to this Request for Proposals, 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. Qualification and Experience of Staff:

List the name(s), title(s) and resumes of personnel who may be assigned to perform any services requested. Identify subconsultants, if any, and indicate their experience and qualifications. The information provided shall be sufficient to demonstrate that the proposed staff possesses the required experience as listed herein for performance of the contemplated services. Include information on the following:

1. Provide a profile of the Program/Project Manager(s) as required to demonstrate the main projects the individual has managed in the past five (5) years, performing the service(s) as stipulated in Attachment A. Provide a resume that details his or her educational background, chronological history of employment, and any relevant licenses and/or certifications.

2. Experience of other Key Personnel

   Attach a detailed resume for each individual that includes his/her educational background, chronological history of employment, relevant licenses and

certifications. The resumes should clearly identify the years of experience in the field related to the tasks for which the individual will be responsible.

Prepare a table that provides a summary of project experience for key personnel on this project with respect to number of projects and project costs.

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.

E. A detailed description of the proposed management approach 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 client apprised of the project status; and your proposed approach to ensuring the quality of the work product to be produced.

F. The name(s), title(s) and hourly rate(s) for engineering and technical personnel who will be assigned to perform any services requested. Indicate billing rates for partners or principals and actual hourly rates for all other billable employees. Provide a company policy for compensation for premium pay (i.e. holidays, shift differentials, regular days, weekends and night work or union required payments must be included). Typical job titles may include, but are not limited to, the following:

1. Principal or Partner (Billing Rate)
2. Engineers (Actual Hourly Rate)
3. Technicians (Actual Hourly Rate)

The "multiplier" referred to in the second and fifth lines 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.

G. Your attention is directed to Paragraph 22 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.

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 staff, including subconsultants, performing services hereunder;

B. qualifications and experience of the firm; and

C. 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 his Proposal explaining why any such certification(s) cannot be made. Such a submission shall be submitted in a separate envelope along with your Proposal, clearly marked "CERTIFICATION STATEMENT."

It is Authority policy that its contractors and vendors comply with the legal requirements of the States of New York and New Jersey. Your attention is therefore called to New York State's requirements that certain contractors, affiliates, subcontractors and subcontractors' affiliates register with the New York State Department of Taxation and Finance for the purpose of collection and remittance of sales and use taxes. Similarly, New Jersey requires business organizations to obtain appropriate Business Registration Certificates from the Division of Revenue of the State's Department of the Treasury.

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

Should you have any questions, please contact Tracy Tiernan, Senior Contract Specialist, by email at ttiernan@panynj.gov. All such emails must have "**RFP 22656**" in the subject line. The Authority must receive all questions no later than 4:00 P.M. on October 25, 2010. Neither Ms. Tiernan 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.

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 www.panynj.gov. Also, Proposers are encouraged to periodically access the Authority website at http://www.panynj.gov/business-opportunities/bid-proposal-advertisements.html for RFP updates and addenda.

Sincerely yours,

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

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONALPROJECT RISK ANALYSIS AND RELATED PROJECT MANAGEMENT (MWBE) SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2011

I. BACKGROUND

The Port Authority of New York and New Jersey (the "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.

II. SCOPE OF WORK

The services of the Consultant shall generally consist of providing expert cost and schedule risk estimating analysis and related project management services on an "as-needed" basis.

Required services may include, but are not limited to, the development of detailed project schedules; validation of project scope definitions, cost estimates and project schedules; facilitation of risk identification, analysis and mitigation strategy workshops; development of project cost and schedule risk models and analysis; and preparation of final risk management report, accompanying models and work products. The typical time frame for a project risk analysis effort is two (2) months but may vary depending on the specific project.

The services of the Consultant shall predominately be performed at the Authority's facilities within the Port District, but may in some instances be performed at the Consultant's office(s).

III. DESCRIPTION OF THE CONSULTANT'S TASK

Specific tasks to be performed by the Consultant may include but shall not be limited to the following:

TASK A – PREPARATION MEETING

The Consultant shall facilitate a preparation/kick-off meeting to organize and accomplish the following:

1. Review the existing project documentation and project scope of work;
2. Review the Engineer's Estimate (construction cost estimate);
3. Review the project schedule;
4. Recommend the composition of the risk analysis team who shall identify and score project risks;
5. Recommend schedule for the project risk analysis effort identify milestones and deliverables for the Project Risk Analysis report.

TASK B – COST ESTIMATE AND SCHEDULE REVIEW

The Consultant shall review project cost and schedule documentation independently. After the independent review, the Consultant shall organize a session with appropriate Authority staff to review and validate base cost and schedule estimates. Base cost and schedule validation shall include, but shall not be limited to the following:

1. Confirm project cost and schedule match documented project scope;
2. Confirm unit prices are valid;
3. Identify and remove any contingencies.

The Consultant may be required to develop project schedules to the level of detail required to assess project schedule risks. The Authority's current standard tool for development and maintenance of project schedules is Oracle's Primavera P6, Version 7.0.

TASK C – PROJECT RISK IDENTIFICATION WORKSHOP

The Consultant shall facilitate the project risk identification workshop where project risks shall be identified and quantified. The Consultant shall be responsible for the following activities:

1. Eliciting information from subject matter experts and project team participants relative to project risks, likelihood of occurrence, and estimated impact on project cost and schedule.
2. Recording project risks and documenting them in the risk register template provided by the Authority with sufficient detail to allow for later analysis and use in the Project Risk Analysis report.
3. Facilitating risk scoring used to determine appropriate project cost and schedule contingencies.

TASK D – RISK ANALYSIS AND RISK MODELING

The Consultant shall model each of the risks in the risk matrix associating the cost elements in the Engineer's estimate and the schedule elements with activities in the project schedule.

Project cost and schedule risks impact assessment shall be through the use of a Monte Carlo simulation method using the cost and schedule model to be developed by the Consultant. The Consultant shall summarize the findings from the Project Risk Identification Workshop.

The Authority's current standard tool for estimating cost impacts is Palisades @Risk Add-In to Microsoft's Excel, Version 5.5.1. The current standard tool for estimating schedule impacts is Oracle's Primavera Risk Analysis, Version 8.6.

TASK E – RISK MITIGATION WORKSHOP

The Consultant shall facilitate a follow-up session with participants from the Risk Identification Workshop to present the preliminary results from Task D and identify feasible risk mitigation strategies and associated costs. The Consultant shall be responsible for the following activities:

1. Presentation of the preliminary results of the risk analysis and risk modeling effort.
2. Eliciting risk mitigation strategies from subject matter experts and project team participants including applicable risk events, likelihood of effectiveness (impact on project cost, schedule and/or scope), estimated risk mitigation costs, and durations for implementation.

TASK F – PROJECT RISK MANAGEMENT REPORT

Two weeks after the final workshop, the Consultant shall provide a preliminary draft report to workshop participants for review and comment. The Consultant shall follow up with the workshop participants in one week for comments. Within one week of receiving comments, submit a final draft report incorporating the requested changes.

The final draft Project Risk Management Report shall consist, at a minimum, of the following:

- Executive Summary
- Project Description and Objectives
- Project Workshop Notes and Key Assumptions
- Completed Risk Register
- Model Results
- Risk Mitigation Strategies
- Discussion of Findings

The final report shall be provided in both electronic and hardcopy format. In addition, the Consultant shall provide electronic copies of the risk model and its components suitable for use with the Authority's current standard software tools (@Risk, Primavera Risk Analysis and Primavera P6).

TASK G – PROJECT RISK ANALYSIS SERVICES AND RELATED PROJECT MANAGEMENT SUPPORT

The Consultant may be required to provide ancillary related project management support activities as follows:

1. Conducting briefings for executive staff;
2. Conducting biddibility and/or constructability reviews;
3. Maintaining and updating the existing Project Management Manual;
4. Providing project control functions through the use of Primavera currently used by the Authority;
5. Providing project management training/workshop sessions.

* * *

P.A. Agreement #*-11-*****
DATE

FIRM NAME
ADDRESS
CITY, STATE ZIP

Attention: CONTACT, TITLE

SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL PROJECT RISK ANALYSIS AND RELATED PROJECT MANAGEMENT (M/WBE) SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2011, 2012, 2013

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 project risk analysis and related project management (M/WBE) services as more fully set forth in Attachment A, which is attached hereto and made a part hereof, on a "call-in" basis during 2011, 2012 and 2013.

2. This Agreement shall be signed by you and the Authority's Director of Procurement. As used herein and hereafter, the "COO" means the Authority's Chief Operating Officer, acting either personally or through his 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 COO 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.

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.

3. Your services shall be performed as expeditiously as possible and at the time or times required by the COO. 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 COO for approval an estimated cost and staffing analysis of such services to the Authority. Approval of such cost and direction from the COO 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 COO and you shall submit to him 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 COO 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 COO 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 COO. The COO may disapprove, if in his 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 COO, 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 his 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 COO. 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. For work performed at the Consultant's offices, the Consultant shall be compensated at an amount equal to *.** times the actual salaries paid by you to professional and technical personnel (but not partners or principals) for time actually spent by them in the performance of services hereunder; for work performed at Authority office(s), as mutually agreed upon, the Consultant shall be compensated at an amount equal to *.** times the actual salaries paid by you

to professional and technical personnel (but not 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, as 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 COO 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, the number assigned to the work hereof, billing rates and salaries of 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 adjustment 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) are based upon increases in salaries and billing rates which are generally applicable to all of Consultant's clients and d) are in accordance with the Authority's salary rate increase policy for the current year for Authority employees possessing comparable skills and experience. If during any calendar year, 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 in all cases be finally determined by the COO or his designee, in their sole and absolute discretion.

Notwithstanding the above, the multipliers set forth in the second and fifth lines 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 partners or principals, project/program management or other professional and technical employees 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 COO 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 COO. 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 COO 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 COO, 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 COO 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 his personal vehicle to provide services within the Port District, the Consultant shall be reimbursed for travel expenses beyond normal commuting costs at a rate not higher than the Annual Federal Mileage Reimbursement Rate (as determined by the 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 COO. 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) Domestic Rates: http://www.gsa.gov/portal/category/21287.

You shall obtain the COO'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 COO. Upon receipt of the foregoing, the COO 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 COO, 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 COO 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 COO. Such approval may be withheld if for any reason the COO 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 COO, 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 COO.

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

18. You shall promptly and fully inform the COO 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 COO. 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-Owned 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 http://www.panynj.gov/business-opportunities/sd-mini-profile.html. The Consultant shall 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 an endorsement that the policy may not be canceled, terminated or modified without thirty (30) days written advance notice to the Project Manager as noted below. Moreover, the Commercial General Liability policy shall not contain any provisions (other than a Professional Liability exclusion, if any) for exclusions from liability other than provisions or exclusions from liability forming part of the most up to date ISO form or its equivalent unendorsed Commercial General Liability Policy. The liability policy (ies) and certificate of insurance shall contain separation of insured condition (cross-liability) and severability of interests provisions so that coverage will respond as if separate policies were in force for each insured.

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

2) Additional Coverages: The Consultant shall have the policy endorsed when required by the COO 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 COO 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, including but not limited to the 30 day cancellation notice endorsement 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 COO, 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 COO in writing of such situation giving the full details thereof. Unless the Consultant receives the specific written approval of the COO, 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 COO 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 COO to be no longer appropriate because of such preclusion, then the COO 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 _____

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.

August 13, 2009

SUBJECT: REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT PROFESSIONAL ASBESTOS AND LEAD ANALYSES SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010, 2011, 2012 AND 2013

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 the subject services on a "call-in" basis during 2010 as part of the Materials Engineering 2010-2013 Consultant Program.

At the Authority's discretion, the Consultant may be required to enter into a new agreement for each of the following three years: 2011, 2012, and 2013. Said agreement(s) shall be identical to this Agreement unless otherwise mutually agreed upon by the parties. Subsequent agreements shall be sent to the Consultant as noted above at least thirty (30) days prior to the end of the current term.

Attached is a copy of an Authority standard agreement, including Attachment A. Carefully review these documents as they form the agreement that the Authority will require you to sign in the event your Proposal is accepted.

The services of the Consultant may include the performance of work at the World Trade Center (WTC) Site. Such work may be partially or fully funded by the Federal Transit Administration (FTA). In those cases, FTA terms and conditions are required as part of the subject agreement and are applicable solely for the performance of such services. If your firm wants to be considered for performance of FTA-funded work, a statement to that effect must be included in your transmittal letter. Review the attached "The Port Authority of New York and New Jersey - Federal Transit Administration Requirements Services Attachment" (Attachment B), which shall be in effect for the performance of such services at the WTC Site. Consultants performing FTA-funded work must comply with all FTA regulations, policies, procedures and directives, including, but not limited to those set forth in the Attachment B cited above, as well as any subsequent amendments thereto.

Firms not wishing to perform the subject services at the WTC Site are also encouraged to respond to this Request For Proposals (RFP).

I. PROPOSER REQUIREMENTS:

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

A. Must have New York State Department of Health (NYSDOH) – Environmental Laboratory Accreditation Program (ELAP), National Voluntary Laboratory Accreditation Program (NVLAP), and American Industry Hygiene Association (AIHA) certifications for all methods cited in Exhibit I, Attachment A (Pricing Schedule);

B. Must have a minimum of three (3) years of successful participation in proficiency testing by certifying agencies;

C. Must own all analytical instrumentation and support devices required by the methods cited in Exhibit I;

D. Must have performed within the last five (5) years a minimum of twenty (20) of the analyses methods, as described in Attachment A.

II. PROPOSAL FORMAT REQUIREMENTS:

To respond to this Request for Proposals (RFP), the Proposer shall submit a concise proposal in response to the following basic criteria:

A. To be acceptable, this Proposal shall be of no more than **25** pages (single-sided using 12 point or greater font size), not including resumes or documents requested pertaining to laboratory equipment and certifications. Each resume shall be 2-page maximum, single-sided using 12 point or greater font size. The Proposal pages shall be numbered and bound, or in a 3-ring binder, with "Your Firm Name", and **RFP Number 18412** 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.

C. All proposals must be delivered in sealed envelopes and/or packages. Address Proposal to: The Port Authority of New York and New Jersey, One Madison Avenue, 7th Floor, New York, NY 10010, Attention: RFP Custodian. You are requested to submit one (1) reproducible original and three (3) copies, along with one (1) compact disc copy, of your Proposal for review. Notwithstanding retention of the compact disc, in case of conflict, the reproducible original of the proposals and the written hard copy Contract, if awarded, shall take precedence over material on the compact disc.

D. In each submission to the Authority, including any return address label, information on the compact disc and information on the reproducible original and copies of the proposal, the Proposer shall use its **FULL LEGAL NAME WITHOUT ABBREVIATIONS**. Failure to comply with this requirement may lead to delays in contract award and contract payments, which shall be the responsibility of the Proposer.

E. Submit your Proposal in sufficient time so that the Authority receives it **no later than 2:00 p.m. on Thursday, September 3, 2009.** 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.

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 C (Agreement on Terms of Discussion) signed by an officer of your company.

B. Demonstrate your compliance with the prequalification requirements listed in "Proposer Requirements" as noted above. Include copies of all certifications, as appropriate.

C. Unit prices for specific items of work and/or analyses as outlined in Attachment A, Exhibit I.

D. List and provide the number of all analytical instruments and support equipment, as required by the methods outlined in Attachment A, Exhibit I.

E. Specific relevant experience of your firm. For all projects referenced, include the name of the company, a contact person and current telephone number for verification purposes.

F. The Consultant's proposed management approach, particularly in sample management and analysis of short Turn-Around-Time (TAT) samples. Demonstrate history meeting 24/7 analysis requests.

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

H. 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.

I. The Proposer is expected to agree with the standard agreement and its terms and conditions. You should therefore not make any changes in this standard agreement, nor restate any of its provisions in your Proposal or supporting material. ***However, if the Proposer has any specific exceptions, such exceptions should be set forth in a separate letter included with its response to this RFP.*** The Authority is under no obligation to entertain or accept any such specific exceptions. Exceptions raised at a time subsequent to proposal submission will not be accepted. The scope of the tasks to be performed by you are set forth in Attachment A to the Authority's standard agreement.

FOR THE PERFORMANCE OF WORK AT THE WTC SITE:

If your firm seeks to perform its services at the WTC Site, provide the following additional information:

J. Execute and submit the certifications contained in the Appendix of Attachment B.

IV. SELECTION PROCESS:

The selection process for the performance of the subject services shall include consideration of the factors listed below in order of importance.

A. The quality and depth of the experience and qualifications of the staff, including subconsultants, who will be performing services hereunder.

B. The extent and quality of experience of the firm and the quality of similar services provided to others including the demonstrated ability to complete the services in accordance with the project schedule.

C. The Consultant's proposed management approach for the performance of services hereunder.

After consideration of the preceding technical factors, the cost of the Consultant's services will evaluated on a best buy/best value basis.

V. ADDITIONAL INFORMATION:

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

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

Your attention is directed to Paragraph 27 of the Authority's Standard Agreement in which the Chief Engineer has stated the goals for Minority Business Enterprise participation. A listing of certified MBE/WBE firms is available to you at your request.

After a review of all proposals received, the Authority will forward two copies of the Agreement and Attachment A thereto to the selected firm(s) who shall sign and return both copies. The return of one copy executed by the Authority will effectuate the Agreement.

Should you have any questions, please e-mail them to Ms. Mary Lou Rivera, Senior Contract Specialist at mlrivera@panynj.gov. All questions must be received at least five (5) working days prior to the proposal due date. Neither Ms. Rivera, nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate. For RFP updates and Addenda, if any, Proposers are encouraged to periodically access the Authority website at http://www.panynj.gov/DoingBusinessWith/contractors/html/current.php#prof_ad. You should therefore monitor the advertisement on said website, as appropriate, to ensure you are aware of changes, if any.

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.

The sole administrative remedy for protesting procurement decisions is located at the following link: http://www.panynj.gov/DoingBusinessWith/contractors/pdfs/Protest_Procedures.pdf.

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

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

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

Sincerely yours,

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

Attachments

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL ASBESTOS AND LEAD ANALYSES TECHNICAL SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010

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."

II. SCOPE OF WORK

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The services of the Consultant shall generally consist of but are not limited to providing expert technical and analytical services relating to asbestos and lead investigations and/or analyses.

The Consultant shall perform analysis of environmental samples (in air, water, soil, sediment, and sludge matrices) and analysis of building materials for the presence, type and proportion of asbestos and or lead. All analyses shall be performed in accordance with analytical test procedures approved by federal and state regulatory agencies and as directed by the Authority.

III. DESCRIPTION OF CONSULTANT'S TASKS

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The Consultant's tasks may include, but are not limited to, the following environmental and material sample analysis services:

A. Sample Pick-Up/Transport

Provide immediate pick-up services at the request of the Authority. This is defined as a time frame no greater than one (1) hour from the time a request is made, until the sample is returned to the Consultant's laboratory and analysis initiated. Costs for sample pick-up and transportation are to be included in the unit price for each analysis (see Exhibit I). Pickups will be made at the project site. All project sites are within the Port District.

B. Parameters, Matrices and Pricing

Analyze various parameters on samples of building materials, groundwater, surface water, sediment, sludge and/or soil matrices. What about air samples? Some samples may contain hazardous levels of volatile organics, aromatics, metals or other toxins. The Authority Project Manager will provide the laboratory Project Manager with all site background information when available. The cost of sample disposal is to be included in the unit prices.

Payment for all analyses will be made at the unit prices on the attached Exhibit I.

If an analysis is requested that does not appear on this schedule, the Consultant shall submit to the Authority a unit price prior to the performance of the requested service. Upon approval of the unit price, the Consultant may proceed with the performance of the requested service.

IV. TURNAROUND TIME & DELIVERABLES

A. Turn-Around-Time (TAT)

Provide results to the Authority Project Manager in the form of a facsimile transmittal within the requested turn-around time. Result datasets are to be placed on the Authority's document management system called Live Link (LL). LL is a secure web-based application. One point of contact from your laboratory will be given access to the LL system and training associated with use of LL. The laboratory will upload results within the required TAT to LL. Instructions detailing the file uploading procedure will be provided following an awarded contract. The format of the electronic submission of the results will comply with the Earthsoft EZEDD format. An example of the EZEDD format is included in Appendix A-1.

A final, signed report as specified in C.1. below for each sample delivery group, accompanied by the invoice for the analysis completed, shall be in the hands of the Authority contract administrator within four (4) working days after the end of each billing cycle. For the purpose of turn-around time, the counting of hours begins at the time the samples are received by the laboratory. Service shall be available twenty-four (24) hours a day, seven (7) days a week including holidays.

Samples that reach the laboratory without explicit required turnaround, either as specified on the chain-of-custody document or verbally by the project manager, shall be assume to be for 24- hour TAT.

The TATs given in Exhibit I shall be the only ones used by the Consultant unless prior written and specific approval is given by the Authority. In the case of a turnaround request other than those in Exhibit I, the turnaround shall be at the next longer TAT in the schedule.

B. Liquidated Damages

Since actual damages to the Authority are difficult and/or impossible to compute, failure to meet the mutually agreed upon schedule for performance of requested services shall result in a reduction of ten percent (10%) in the applicable unit prices for the achieved turnaround (as contained in Exhibit I) for the requested services as liquidated damages.

C. Deliverables

1. Hard Copy

Facsimile report shall be made within the requested TAT. Final report shall be posted on live link by the end of the billing cycle. Formal, signed report(s) are to be attached to the corresponding invoice(s) and received by the Authority within four (4) days of the end of the billing cycle. The Consultant's report submittals shall conform to the Authority standard report format. The Authority Standard Report, also know as a Data Summary Format, includes the following:

- The Authority's project name, and sample identification on the title page
- Identification of the methods used for analysis
- Results, listed by sample number
- Copies of all the Authority's chain of custody documents and field documents delivered with the samples

In certain instances, priority TAT may require an immediate hard copy deliverable. The laboratory will be informed of these needs prior to the project inception.

2. Electronic Deliverables:

The Authority will provide the successful Consultant(s) with the format for transmittal of machine-readable files.

D. Detection Limits

The Consultant will be informed of the regulatory impetus or project detection requirements for each assignment. In general, each sample shall be required to meet the published limits of detection. All reasonable efforts must be made to meet the regulatory requirements and/or published detection limits.

The Authority reserves the right to withhold payment for samples which are diluted beyond the point of determining regulatory compliance without receiving acceptable justification.

E. Sample Retention

Unless otherwise specified, the Consultant shall retain all Authority samples for the period of time required by federal, state and local regulations, after which time all sample material shall be properly disposed of in strict accordance with all applicable Federal state and local requirements.

F. Subcontracting & Non-Routine Analytical Services

The Consultant shall perform the majority of the analyses in-house. Testing performed by subconsultant(s) must be so designated on the Exhibit I by inserting the name of the subconsultant in the appropriate column of the Exhibit I. The Authority reserves the right to disapprove the use of specific subconsultants at its sole discretion. The Consultant is responsible for ensuring that all subconsultants are duly certified for the parameter/method of interest by the appropriate agencies.

G. Certification Requirements

All laboratories performing environmental and materials testing services for the Authority shall possess the following certifications for the parameters indicated on the Exhibit I, where applicable

- NYSDOL ELAP
- NVLAP
- AIHA

H. Billing

At the end of each billing cycle all charges related to a given Authority charge code shall be listed together, referenced by sample delivery group and sample numbers, on separate invoice, one for each charge code, together with each and every final report as specified in C.1. above that are referenced in that invoice.

V. CONDITION AND PRECAUTIONS

A. General

The Consultant shall immediately inform the Authority of any unsafe condition discovered at any time during the course of this work.

Aircraft movements and operations, control tower operations, vehicular use of tunnels and bridges, use of storage warehouse, train service and all other Authority and tenant operations shall always have priority over any and all of the Consultant's operations. The Consultant shall coordinate its inspections of the structures with the Chief Engineer as not to delay, endanger or interfere with Authority or tenant operations.

B. Work Area

The Consultant shall limit its work to the areas necessary for the performance of such work and shall not interfere with the operation of facility without first obtaining specific approval from the Chief Engineer.

C. Work Hours

The Consultant shall perform the work at the site contingent upon the Consultant's scheduling and/or facility availability.

All activities in tenant exclusive and concession areas must be coordinated with the tenants through the Chief Engineer.

****

EXHIBIT I

Asbestos Lead Technical Analyses

				TURNAROUND TIME											
				1 Hour		4 Hours		8 Hours		12 Hours		24 H	
				Estimated Quantity	Unit Price	Estimated Quantity	Unit Price	Estimated Quantity	Unit Price	Estimated Quantity	Unit Price	Estimated Quantity	Unit
ID	Parameter	Methods	Subconsultant		($)		($)		($)		($)		
Asbestos In Environmental & Material Samples													
AE-2	TEM Determination of Asbestos Fibers in Settled Dust	ASTM D 5755 - 95										50	
AE-3	PCM for Airborne Fibers	NIOSH 7400		600		15000				2500		7500	
AE-4	TEM to Determine Completion of Response Action	40 CFR 763 Appendix A to Subpart				750		700				200	
AE-5	TEM to Determone Personal Exposure to Asbestos Fibers	NIOSH 7402										35	
AM-1	Stratified Point-Counting PLM for Asbestos in Bulk Samples	EPA-600/M4-82-020 & NYS-DOH Item 198.1		250		350		650		250		1500	
AM-2a	Analysis of Asbestos in NOB Bulk Samples (>1% Asbestos by PLM)	NYS-DOH Item 198.4								200		400	
AM-2b	Analysis of Asbestos in NOB Bulk Sampled (TEM Reanalysis of NAD's by PLM)									150		500	
Lead In Environmental & Material Sample by Flame AA													
IH-1a	Lead in Air	NIOSH 7082				480				300		600	
IH-2a	Lead in Soils	SW-846-7420											
IH-3a	Lead in Wipes	SW-846-7420								50		50	
IH-4-a	Lead in Paint Chips	SW-846-7420				120				120		500	
Lead In Environmental & Material Sample by Graphite Furnace AA													
IH-1b	Lead in Air	NIOSH 7105											

Hours	48 Hours		72 Hours	
l Price	Estimated Quantity	Unit Price	Estimated Quantity	Unit Price
($)		($)		($)
	50			
	2000			
			50	
			25	
	250		250	
	400		100	
	150		100	
	600			
	100			
	400			
	100		200	

EXHIBIT II
NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT
BETWEEN

(FIRM NAME)

AND

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (this "**Agreement**") is made as of this ____ day of _____, 2009, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (the "**Port Authority**") a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States, and having an office and place of business at 225 Park Avenue South, New York, New York, 10003, and FIRM NAME, Inc. having an office and place of business at _____(address) ("**Recipient**").

WHEREAS, the Port Authority desires, subject to the terms and conditions set forth below, to disclose to Recipient Confidential Information (as defined below) in connection with performance of expert professional asbestos and lead technical analyses services as requested on a "call-in" basis during 2010; and

WHEREAS, the Recipient acknowledges that the Port Authority, in furtherance of its performance of essential and critical governmental functions relating to the Project, has existing and significant interests and obligations in establishing, maintaining and protecting the security and safety of the Project site and surrounding areas and related public welfare matters; and

WHEREAS, in furtherance of critical governmental interests regarding public welfare, safety and security at the Project site, the Port Authority has collected information and undertaken the development of certain plans and recommendations regarding the security, safety and protection of the Project site, including the physical construction and current and future operations; and

WHEREAS, the Port Authority and Recipient (collectively, the "**Parties**") acknowledge that in order for Recipient to undertake its duties and/or obligations with regard to its involvement in the Project, the Port Authority may provide Recipient or certain of its Related Parties (as defined below) certain information in the possession of the Port Authority, which may contain or include confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, relating to the Project or its occupants or other matters, the unauthorized disclosure of which could result in significant public safety, financial and other damage to the Port Authority, the Project, its occupants, and the surrounding communities; and

WHEREAS, Recipient recognizes and acknowledges that providing unauthorized access to, or disclosing such information to third parties in violation of the terms of this Agreement could compromise or undermine the existing or future guidelines, techniques and procedures

implemented for the protection against terrorist acts or for law enforcement, investigation and prosecutorial purposes, and accordingly could result in significant irreparable harm and injury; and

WHEREAS, in order to protect and preserve the privilege attaching to and the confidentiality of the aforementioned information as well as to limit access to such information to a strict need to know basis, the Port Authority requires, as a condition of its sharing or providing access to such confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, that the Recipient enter into this Agreement and that its Related Parties thereafter acknowledge and agree that they will be required to treat as strictly confidential and/or privileged any of such information so provided, as well as the work product and conclusions of any assessments and evaluations or any recommendations relating thereto, and to also fully comply with applicable federal rules and regulations with respect thereto; and

WHEREAS, as a condition to the provision of such information to Recipient and certain Related Parties, the Recipient has agreed to enter into this Agreement with respect to the handling and use of such information and to cause Related Parties to join in and be bound by the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the provision by Port Authority of Information for Project Purposes (as each such term is defined below) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Recipient and each Related Party that receives such Information, the Recipient and each such Related Party agrees, as follows:

1. **Defined Terms**. In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

(a) **"Authorized Disclosure"** means the disclosure of Confidential Information strictly in accordance with the Confidentiality Control Procedures applicable thereto: (i) as to all Confidential Information, only to a Related Party that has a need to know such Confidential Information strictly for Project Purposes and that has agreed in writing to be bound by the terms of this Agreement by executing a form of Acknowledgment as set forth in Exhibit A; and (ii) as to Confidential Privileged Information, only to the extent expressly approved in writing and in advance by the Port Authority, and then only the particular Confidential Privileged Information that is required to accomplish an essential element of the Project.

(b) **"Confidential Information"** means and includes collectively, Confidential Proprietary Information, Confidential Privileged Information, and Information that is labeled, marked or otherwise identified by or on behalf of the Port Authority so as to reasonably connote that such Information is confidential, privileged, sensitive or proprietary in nature. The term Confidential Information shall also include all work product that contains or is derived from any of the forgoing, whether in whole or in part, regardless of whether prepared by the Recipient, the Port Authority or others. The following Information shall not constitute Confidential Information for the purpose of this Agreement:

(i) Particular Information, other than Confidential Privileged Information, that is provided to the Recipient by a source other than the Port Authority, provided that such source is not subject to a confidentiality agreement, or similar obligation, or understanding with or for the benefit of the Port Authority, with respect to such Information and that the identity of such source is not itself part of such Confidential Information.

(ii) Information that is or becomes generally available to the public other than as a result of a disclosure by the Recipient or a Related Party in violation of this Agreement.

(c) "**Confidential Privileged Information**" means and includes collectively, (i) any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York, and/or New Jersey state laws or Federal laws, (ii) Critical Infrastructure Information, (iii) Sensitive Security Information, and (iv) Limited Access Safety and Security Information.

(d) "**Confidential Proprietary Information**" means and includes Information that contains financial, commercial or other proprietary, business Information concerning the Project, the Port Authority, or its facilities.

(e) "**Confidentiality Control Procedures**" means procedures, safeguards and requirements for the identification, processing, protection, handling, care, tracking and storage of Confidential Information that are required under applicable federal or state law, the Port Authority Handbook, or by the terms of this Agreement.

(f) "**Critical Infrastructure Information**" (CII) has the meaning set forth in the Homeland Security Act of 2002 (42 U.S.C. §5195c(e)) and any rules or regulations enacted pursuant thereto, including, without limitation, the Office of the Secretary, Department of Homeland Security Rules and Regulations, 6 C.F.R. Part 29 (6 U.S.C. §131-134). CII may also be referred to as "Protected Critical Infrastructure Information" or "PCII", as provided for in the referenced rules and regulations.

(g) "**Information**" means, collectively, all information, documents, data, reports, notes, studies, projections, records, manuals, graphs, electronic files, computer generated data or information, drawings, charts, tables, diagrams, photographs, and other media or renderings containing or otherwise incorporating information that may be provided or made accessible at any time, whether in writing, orally, visually, photographically, electronically or in any other form or medium, including, without limitation, any and all copies, duplicates or extracts of the foregoing.

(h) "**Limited Access Safety and Security Information**" means and includes sensitive Information, the disclosure of which would be detrimental to the public interest and might compromise public safety and/or security as it relates to Port Authority property, facilities, systems and operations, and which has not otherwise been submitted for classification or designation under any Federal laws or regulations.

(i) "**Port Authority Handbook**" means the Port Authority of N.Y. & N.J. Information Security Handbook, a copy of which is attached hereto as Exhibit B, as may be amended by the Port Authority, from time to time.

(j) **"Project Purposes"** means the use of Confidential Information strictly and only for purposes related to Recipient's and its Related Parties' participation and involvement in the Project, and only for such period of time during which Recipient and its Related Parties are involved in Project related activities.

(k) "**Related Party**" and "**Related Parties**" means the directors, employees, officers, partners or members of the Recipient, as applicable, and the Recipient's outside consultants, advisors, accountants, architects, engineers or subcontractors or subconsultants (and their respective directors, employees, officers, partners or members) to whom any Confidential Information is disclosed or made available.

(l) **"Sensitive Security Information"** has the definition and requirements set forth in the Transportation Security Administrative Rules & Regulations, 49 CFR 1520, (49 U.S.C. §114) and in the Office of the Secretary of Transportation Rules & Regulations, 49 CFR 15, (49 U.S.C. §40119).

2. **Use of Confidential Information**. All Confidential Information shall be used by the Recipient in accordance with the following requirements:

(a) All Confidential Information shall be held in confidence and shall be processed, treated, disclosed and used by the Recipient and its Related Parties only for Project Purposes and in accordance with the Confidentiality Control Procedures established pursuant to Paragraph 2(c), below, including, without limitation, the Port Authority Handbook, receipt of which is acknowledged by Recipient and shall be acknowledged in writing by each Related Party by signing the Acknowledgment attached hereto as Exhibit A, and applicable legal requirements. Confidential Information may be disclosed, only if and to the extent that such disclosure is an Authorized Disclosure.

(b) Recipient and each Related Party acknowledges and agrees that (i) any violation by the Recipient or any of its Related Parties of the terms, conditions or restrictions of this Agreement relating to Confidential Information may result in penalties and other enforcement or corrective action as set forth in such statutes and regulations, including, without limitation, the issuance of orders requiring retrieval of Sensitive Security Information and Critical Infrastructure Information to remedy unauthorized disclosure and to cease future unauthorized disclosure and (ii) pursuant to the aforementioned Federal Regulations, including, without limitation, 49 C.F.R. §§ 15.17 and 1520.17, any such violation thereof or mishandling of information therein defined may constitute grounds for a civil penalty and other enforcement or corrective action by the United States Department of Transportation and the United States Department of Homeland Security, and appropriate personnel actions for Federal employees.

(c) Recipient and each Related Party covenants to the Port Authority that it has established, promulgated and implemented Confidentiality Control Procedures for identification,

handling, receipt, care, and storage of Confidential Information to control and safeguard against any violation of the requirements of this Agreement and against any unauthorized access, disclosure, modification, loss or misuse of Confidential Information. Recipient and each Related Party shall undertake reasonable steps consistent with such Confidentiality Control Procedures to assure that disclosure of Confidential Information is compartmentalized, such that all Confidential Information shall be disclosed only to those persons and entities authorized to receive such Information as an Authorized Disclosure under this Agreement and applicable Confidentiality Control Procedures. The Confidentiality Control Procedures shall, at a minimum, adhere to, and shall not be inconsistent with, the procedures and practices established in the Port Authority Handbook.

(d) The Port Authority may request in writing that the Recipient or any Related Parties apply different or more stringent controls on the handling, care, storage and disclosure of particular items of Confidential Information as a precondition for its disclosure. The Port Authority may decline any request by the Recipient or any of its Related Parties to provide such item of Confidential Information if the Recipient or any of the Related Parties do not agree in writing to apply such controls.

(e) Nothing in this Agreement shall require the Port Authority to tender or provide access to or possession of any Confidential Information to the Recipient or its Related Parties, whether or not the requirements of this Agreement are otherwise satisfied. However, if such Confidential Information is provided and accepted, the Recipient and its Related Parties shall abide by the terms, conditions and requirements of this Agreement.

(f) The Recipient and each Related Party agrees to be responsible for enforcing the provisions of this Agreement with respect to its Related Parties, in accordance with the Confidentiality Control Procedures. Except as required by law pursuant to written advice of competent legal counsel, or with the Port Authority's prior written consent, neither the Recipient, nor any of the Related Parties shall disclose to any third party, person or entity: (i) any Confidential Information under circumstances where the Recipient is not fully satisfied that the person or entity to whom such disclosure is about to be made shall act in accordance with the Confidentiality Control Procedures whether or not such person or entity has agreed in writing to be bound by the terms of this Agreement or any "Acknowledgement" of its terms or (ii) the fact that Confidential Information has been made available to the Recipient or such Related Parties, or the content or import of such Confidential Information. The Recipient is responsible for collecting and managing the Acknowledgments signed by Related Parties pursuant to this Agreement. Recipient shall, at the Port Authority's request, provide the Port Authority a list of all Related Parties who have signed an Acknowledgment, and copies of such Acknowledgments.

(g) As to all Confidential Information provided by or on behalf of the Port Authority, nothing in this Agreement shall constitute or be construed as a waiver of any public interest privilege or other protections established under applicable state or federal law.

3. **Disclosures and Discovery Requests**. If a subpoena, discovery request, Court Order, Freedom of Information Request, or any other request or demand authorized by law seeking disclosure of the Confidential Information is received by the Recipient or any Related Party, Recipient shall notify the Port Authority thereof with sufficient promptness so as to enable the

Port Authority to investigate the circumstances, prepare any appropriate documentation and seek to quash the subpoena, to seek a protective order, or to take such other action regarding the request as it deems appropriate. In the absence of a protective order, disclosure shall be made, in consultation with the Port Authority, of only that part of the Confidential Information as is legally required to be disclosed. If at any time Confidential Information is disclosed in violation of this Agreement, the Recipient shall immediately give the Port Authority written notice of that fact and a detailed account of the circumstances regarding such disclosure to the Port Authority.

4. **Retention Limitations; Return of Confidential Information**. Upon the earlier occurrence of either the Port Authority's written request or completion of Recipient's need for any or all Confidential Information, such Confidential Information, all writings and material describing, analyzing or containing any part of such Confidential Information, including any and all portions of Confidential Information that may be stored, depicted or contained in electronic or other media and all copies of the foregoing shall be promptly delivered to the Port Authority at Recipient's expense. In addition, as to Confidential Information that may be stored in electronic or other form, such Confidential Information shall be completely removed so as to make such Confidential Information incapable of being recovered from all computer databases of the Recipient and all Related Parties. The Recipient may request in writing that the Port Authority consent to destruction of Confidential Information, writings and materials in lieu of delivery thereof to the Port Authority. The Port Authority shall not unreasonably withhold its consent to such request. If the Port Authority consents to such destruction, the Recipient and each Related Party shall deliver to the Port Authority a written certification by Recipient and such Related Party that such Confidential Information, writings and materials have been so destroyed within such period as may be imposed by the Port Authority. Notwithstanding the foregoing, to the extent required for legal or compliance purposes, the Recipient may retain a copy of Confidential Information, provided that (a) the Port Authority is notified in writing of such retention, and (b) Recipient continues to abide by the requirements of this Agreement with respect to the protection of such Confidential Information.

5. **Duration and Survival of Confidentiality Obligations**. The obligations under this Agreement shall be perpetual (unless otherwise provided in this Agreement) or until such time as the Confidential Information is no longer considered confidential and/or privileged by the Port Authority.

6. **Severability**. Each provision of this Agreement is severable and if a court should find any provision of this Agreement to be unenforceable, all other provisions of this Agreement shall remain in full force and effect.

7. **Injunctive and Other Relief**. Recipient and each Related Party acknowledges that the unauthorized disclosure and handling of Confidential Information is likely to have a material adverse and detrimental impact on public safety and security and could significantly endanger the Port Authority, its facilities (including, without limitation, the Project site), its patrons and the general public and that damages at law are an inadequate remedy for any breach, or threatened breach, of this Agreement by Recipient or its Related Parties. The Port Authority shall be entitled, in addition to all other rights or remedies, to seek such restraining orders and injunctions as it may deem appropriate for any breach of this Agreement, without being required to show any actual damage or to post any bond or other security.

8. **Governing Law**. 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. The Port Authority (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient specifically and irrevocably consent to the exclusive jurisdiction of any federal or state court in the County of New York and State of New York with respect to all matters concerning this Agreement and its enforcement. The Port Authority (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient agree that the execution and performance of this Agreement shall have a New York situs and, accordingly, they each consent (and solely with respect to the Port Authority, subject to the terms of the Port Authority Legislation (as defined below)) to personal jurisdiction in the State of New York for all purposes and proceedings arising from this Agreement. "**Port Authority Legislation**" shall mean the concurrent legislation of the State of New York and State of New Jersey set forth at Chapter 301 of the Laws of New York of 1950, as amended by Chapter 938 of the Laws of New York of 1974 (McKinney's Unconsolidated Laws §§7101-7112) and Chapter 204 of the Laws of New Jersey of 1951 (N.J.S.A. 32:1-157 to 32:1-168).

9. **Notices**. Any notice, demand or other communication (each, a "**notice**") that is given or rendered pursuant to this Agreement by either party to the other party, shall be: (i) given or rendered, in writing, (ii) addressed to the other party at its required address(es) for notices delivered to it as set forth below, and (iii) delivered by either (x) hand delivery, or (y) nationally recognized courier service (e.g., Federal Express, Express Mail). Any such notice shall be deemed given or rendered, and effective for purposes of this Agreement, as of the date actually delivered to the other party at such address(es) (whether or not the same is then received by other party due to a change of address of which no notice was given, or any rejection or refusal to accept delivery). Notices from either party (to the other) may be given by its counsel.

The required address(es) of each party for notices delivered to it is (are) as set forth below. Each party, however, may, from time to time, designate an additional or substitute required address(es) for notices delivered to it, provided that such designation must be made by notice given in accordance with this Paragraph 9.

If to the Port Authority:	The Port Authority of New York and New Jersey 225 Park Avenue South, 12th Floor New York, NY 10003
with a copy to:	The Port Authority of New York and New Jersey 225 Park Avenue South - 15th Floor New York, NY 10003 Attn: General Counsel

If to the Recipient:

with a copy to: _____
_____
_____

10. **Entire Agreement**. This Agreement contains the complete statement of all the agreements among the parties hereto with respect to the subject matter thereof, and all prior agreements among the parties hereto respecting the subject matter hereof, whether written or oral, are merged herein and shall be of no further force or effect. This Agreement may not be changed, modified, discharged, or terminated, except by an instrument in writing signed by all of the parties hereto.

11. **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall be one and the same document.

12. **Parties Bound**. This Agreement shall be binding upon the Recipient and its respective successors. The foregoing shall not be affected by the failure of any Related Party to join in this Agreement or to execute and deliver an Acknowledgement hereof.

13. **Authority**. The undersigned individual(s) executing this Agreement on behalf of the Recipient below represent(s) that they are authorized to execute this Agreement on behalf of the Recipient and to legally bind such party.

14. **Disclosure of Ownership Rights or License**. Nothing contained herein shall be construed as the granting or conferring by the Port Authority of any rights by ownership, license or otherwise in any Information.

15. **No Liability**. Neither the Commissioners of the Port Authority, nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Recipient with any liability, or held liable to the Recipient under any term or provision of this Agreement, or because of its execution or attempted execution or because of any breach, or attempted or alleged breach thereof.

16. **Construction**. This Agreement is the joint product of the parties hereto and each provision of this Agreement has been subject to the mutual consultation, negotiation, and agreement of the parties hereto, and shall not be construed for or against any party hereto. The captions of the various sections in this Agreement are for convenience only and do not, and shall not be deemed to, define, limit or construe the contents of such Sections.

[*No further text on this page; signatures appear on next page*]

IN WITNESS WHEREOF, the Recipient has executed this Agreement as of the date first above written.

Dated: New York, New York

_____ ____, _____

RECIPIENT:
FIRM NAME

By: _____

Title: _____

Date: _____

EXHIBIT A

ACKNOWLEDGMENT BY RELATED PARTY ENTITY

The undersigned, _____ (name of authorized signatory), is the _____(Title) of _____ (name of entity), a _____(type of entity and jurisdiction of formation) ("**Related Party**"), located at _____ (address of entity), and is duly authorized to execute this Acknowledgment on behalf of the above Related Party. The above Related Party is involved with the functions of _____ (describe scope of work of Related Party) in connection with performance of expert professional asbestos and lead technical analyses services as requested on a "call-in" basis during 2009 for The Port Authority of New York and New Jersey (the "**Port Authority**"). I acknowledge and confirm that the above named Related Party has been provided with a copy of and shall be bound and shall abide by all of the terms, requirements and conditions set forth in the Non Disclosure and Confidentiality Agreement dated _____ ____, _____, between _____ (the "**Recipient**") and the Port Authority (hereinafter the "**Agreement**"), and by the Port Authority Handbook described in the Agreement. Appropriate and responsible officers and employees of the Related Party have carefully read and understand the terms and conditions of the Agreement. The Related Party has notice and acknowledges that any breach or violation of such terms, requirements and conditions may result in the imposition of remedies or sanctions as set forth or otherwise described therein against such Related Party.

Signed: _____

Print Name: _____

Title: _____

Date: _____

ACKNOWLEDGMENT BY RELATED PARTY INDIVIDUAL

I, _____ (name of employee) ("**Related Party**"), am employed as a(n) _____(job title) by _____ (name of employer). I have been provided with and have read the Non Disclosure and Confidentiality Agreement between _____ (the "**Recipient**") and The Port Authority of New York and New Jersey (the "**Port Authority**") dated _____ ____, _____ (hereinafter the "**Agreement**"), and the Port Authority Handbook attached to the Agreement. I understand that because of my employer's relationship with _____ (name of Recipient, or the Port Authority if Related Party Individual is an employee of Recipient), both my employer and I may be provided with access to, and/or copies of, sensitive security materials or confidential information. If it is required for me to review or receive Confidential Information, as it is defined in the aforementioned Agreement, I acknowledge that I will be bound by each and every term and provision contained therein, and that failure to do so may include, but is not limited to, the imposition of disciplinary action and sanctions, and/or the institution of legal action seeking injunctive relief, monetary and/or criminal penalties for violation of law and/or Port Authority policies and procedures, as well as for violation of federal and/or state regulations.

To the extent that I am currently in the possession of, or have previously come into contact with, marked information as it relates to the aforementioned Agreement, I agree to conform my handling procedures for Confidential Information to the practices and procedures set forth and defined herein, or risk loss of access to said Information, removal from said Project and/or subjecting myself to the aforementioned disciplinary actions and/or civil and criminal penalties.

Signed: _____

Print Name: _____

Title: _____

Date: _____

P.A. AGREEMENT #*-10-*****
DATE

FIRM
ADDRESS
CITY, ST ZIP

Attention: CONTACT, TITLE

SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL ASBESTOS AND LEAD ANALYSES SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010

Dear CONTACT:

1. The Port Authority of New York and New Jersey (hereinafter referred to as the "Authority") hereby offers to retain ***. (hereinafter referred to as "the Consultant" or "you") to provide expert professional services as more fully set forth in Attachment A, which is attached hereto and made a part hereof, on a "call-in" basis during 2010.

The Authority may, in its sole discretion, require the Consultant to enter into successive one-year agreements for each of the following three years: 2011, 2012, and 2013. Said agreement(s) shall be identical to this Agreement unless otherwise mutually agreed upon, as amended by the parties pursuant to the terms herein. Subsequent agreements shall be sent to the Consultant as noted above at least thirty (30) days prior to the end of the current term.

2. 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.

3. The Authority reserves the right to make changes that are within the general scope of work of this Agreement. Such changes will be authorized only upon the issuance of a written change order. If a change order authorizes additional work, such work shall be compensated in accordance with the rates as set forth in this Agreement. If no such rates are applicable, then the parties will negotiate the mutually acceptable applicable rate(s).

4. The services of the Consultant may include the performance of work at the World Trade Center (WTC) Site. Such work may be partially or fully funded by the Federal Transit Administration (FTA). In those cases, FTA terms and conditions are required as part of the subject agreement and are applicable solely for the performance of such services. For the services that are to be performed under the subject agreement at the WTC Site and funded in whole or in part by the FTA, compensation will be set forth in the applicable task order.

The attached "The Port Authority of New York and New Jersey - Federal Transit Administration Requirements Services Attachment" (Attachment B) shall be in effect for the performance of services at the WTC Site. The Consultant performing FTA-funded work must comply with all

FTA regulations, policies, procedures and directives, including, but not limited to those set forth therein, as well as any subsequent amendments thereto.

5. This Agreement shall be signed by you and the Director of Procurement. As used herein "Chief Engineer" shall mean the Chief Engineer, or the Deputy Chief Engineer of the Authority, acting either personally or through his 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 Chief Engineer has designated ***, Chief of Materials Engineering, to act as his duly authorized representative. The Project Manager for this project is ***, tel. ***, or e-mail address ***@panynj.gov .

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

7. 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 Chief Engineer for approval an estimated cost and staffing analysis of such services to the Authority. The Chief Engineer shall have the right to determine that specified services shall be performed on a Unit Price basis pursuant to Exhibit I. Approval of such cost and direction from the Chief Engineer 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 Chief Engineer and you shall submit to him 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.

8. 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 Chief Engineer personally, in which case the requirements of said notification shall apply.

9. The Consultant shall meet and consult with Authority staff as requested by the Chief Engineer in connection with the services to be performed herein. Any Contract Drawings and

Technical Specifications and other items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Chief Engineer. The Chief Engineer may disapprove, if in his sole opinion said items are not in accordance with the requirements of this Agreement, sound engineering principles, or are impractical, uneconomical or unsuited in any way for the purpose for which the contemplated construction is intended. If any of the said items or any portion thereof are so disapproved, the Consultant shall forthwith revise them until they meet the approval of the Chief Engineer, 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 his responsibility under this Agreement to furnish in accordance with an agreed upon schedule, a complete, practical, economical design and Contract Drawings and Technical Specifications, and corrections and changes therein which are best suited for the contemplated construction, are done in accordance with sound engineering principles and are signed and sealed by a licensed Professional Engineer.

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

11. All services performed under this Agreement will be authorized in writing. You shall render services according to each task order issued under this Agreement until the point at which the total amount to be paid to you, under the task order (the "not-to-exceed amount"), including reimbursable expenses, reaches the combined total of each of the approved estimated costs, unless you are specifically authorized in writing by change order to so continue by the Chief Engineer. If no such authorization is issued, this Agreement shall expire 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.

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

13. 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, and C below, subject to the limits on compensation and provisions set forth in paragraphs 3 and 4 above. Subject to the terms and conditions below. Travel time is not reimbursable under subparagraphs A and B hereunder.

A. When the method of compensation hereunder, as approved in advance and in writing by the Chief Engineer, is on a unit price basis, said unit price shall include all labor, materials, profit and overhead or other expenses relative to the performance of the required services as indicated in Exhibit I, included herewith and made a part hereof.

B. An amount equal to the amounts actually paid to subconsultants hereunder who have been retained after the written approval by the Chief Engineer 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 his services, as part of any request for approval of the subconsultant.

In the event that subconsultants are engaged for services to be performed at the WTC Site, then subcontracts therefor must contain Attachment B. Subconsultants must complete and submit the certifications contained in Attachment B. In no case can a subconsultant agreement contain a cost-plus-percentage-of cost compensation structure.

C. The Consultant shall also be compensated at an amount equal to the out-of-pocket expense, approved in advance by the Chief Engineer, 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 mailing and delivery charges for submittal of drawings, specifications and reports; 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 Chief Engineer 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 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 his personal vehicle to provide services <u>within</u> 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 Chief Engineer. If the Consultant chooses to travel each day to an assignment where it would be more economical to take a hotel room near the assignment, the maximum reimbursable travel expenses shall not exceed the daily cost for meals and lodging. Reimbursable travel as provided herein shall be limited to one round trip per week's service except when otherwise approved in advance and in writing by the Chief Engineer. The total number of reimbursable travel hours (for travel outside the Port District) will be calculated by reducing the actual travel time by three hours. 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&ooid=16365&contentId=17943&pageTypeId=8203&contentType=GSA_BASIC&programPage=%2Fep%2Fprogram%2FgsaBasic.jsp&P=MTT

You shall obtain the Chief Engineer'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.

D. 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 architects, engineers, designers, drafters or other professional and technical employees of the Consultant for time actually spent directly in the performance of technical services hereunder and recorded on daily time records which have been approved by the employee's immediate supervisor, excluding the time of any employee of the Consultant to the extent that the time of such employee of the Consultant is devoted to typing/word processing, stenographic, clerical or administrative functions. Such functions shall be deemed to be included in the unit price referred to in subparagraph A above.

14. You shall keep, and shall cause any subconsultants under this Agreement to keep, daily records of the time spent in the performance of services hereunder by all persons whose salaries or amounts paid thereto will be the basis for compensation under this Agreement as well as records of the amounts of such salaries and amounts actually paid for the performance of such services and records and receipts of reimbursable expenditures hereunder, and, notwithstanding any other 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.

15. 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 Chief Engineer. Upon receipt of the foregoing, the Chief Engineer 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 Chief Engineer, advance to you by check the sum certified minus all prior payments to you for your account.

16. 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 Chief Engineer through the date of termination, minus all prior payments to you.

17. 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 Chief Engineer. Such approval may be withheld if for any reason the Chief Engineer believes that the publication of such information would be harmful to the public interest or is in any way undesirable.

18. 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 Chief Engineer, 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 Chief Engineer.

19. 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 other rights or obligations shall arise out of such additional services.

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

21. Mylars of the contract drawings, originals of technical specifications, estimates, reports, records, data, charts, documents, renderings, computations, computer tapes or disks, and other papers of any type whatsoever, whether in the form of writing, figures or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of the Authority, and the Authority shall have the right to use or permit the use of them and 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.

22. If research or development is furnished in connection with the performance of this Agreement and if in the course of such research or development patentable subject matter is produced by the Consultant, his officers, agents, employees, or subconsultants, the Authority shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to

make, have made, and use, either itself or by anyone on its behalf, such subject matter in connection with any activity now or hereafter engaged in or permitted by the Authority. Promptly upon request by the Authority, the Consultant shall furnish or obtain from the appropriate person a form of license satisfactory to the Authority, but it is expressly understood and agreed that, as between the Authority and the Consultant the license herein provided for shall nevertheless arise for the benefit of the Authority immediately upon the production of said subject matter, and shall not await formal exemplification in a written license agreement as provided for above. Such license agreement may be transferred by the Authority to its successors, immediate or otherwise, in the operation or ownership of any real or personal property now or hereafter owned or operated by the Authority but such license shall not be otherwise transferable.

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

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

25. You shall promptly and fully inform the Chief Engineer in writing of any 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.

26. 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 Chief Engineer. 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.

27. 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 Chief Engineer 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 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.

28. NOTIFICATION OF SECURITY REQUIREMENTS

A. 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.

B. Confidential information shall mean all information disclosed to Consultant or Consultant's employees which relates to the Authority's past, present, and future research, development and business activities including, but not limited, to software and documentation licensed to the Authority or proprietary to the Authority. Confidential information shall also mean any other tangible or intangible information or materials including, but not limited, to computer identification numbers, access codes, passwords, and reports obtained during the performance of Consultant's services under this Agreement. Consultant shall hold all such confidential information in trust and confidence for the Authority, and agrees that Consultant and its employees, agents and representatives will not, during or after the termination or expiration of this Agreement, disclose to any person, firm or corporation, nor use for its own business or benefit, any information obtained by it under or in connection with the supplying of services contemplated by this Agreement. Consultant and its employees, agents and representatives shall not violate in any manner any patent, copyright, trade secret or other proprietary right of the

Authority or third persons in connection with their services hereunder, either before or after termination or expiration of this Agreement. Consultant and its employees, agents and representatives shall not willfully or otherwise perform any dishonest or fraudulent acts, breach any security procedures, or damage or destroy any hardware, software or documentation, proprietary or otherwise, in connection with their services hereunder.

Consultant's obligations with respect to confidentiality and document security are set forth in a Non-Disclosure and Confidentiality Agreement, between the Authority and Consultant (the "Confidentiality Agreement"; Exhibit III). Consultant hereby agrees to execute the Confidentiality Agreement, and hereby agrees the Confidentiality Agreement is and remains in full force and effect in accordance with its terms.

Without the express written approval of the Chief Engineer, you shall keep confidential, and shall require your subconsultants and your employees to keep confidential (a) all information disclosed by the Authority or its consultants or contractors to you or (b) developed by you or your subconsultants in the performance of services hereunder. At the direction of the Authority, you will be required to have your employees, subconsultants and their employees execute, non-disclosure agreements. Disclosure of any such information shall constitute a material breach of the Agreement.

29. 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.

30. 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 (not less than $25,000,000 combined single limit per accident on airside). 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 Chief Engineer for specific services hereunder and include the additional premium cost thereof as an out-of-pocket expense:

a) Endorsement to eliminate any exclusions applying to the underground property, explosion and collapse hazards.

b) Endorsement to eliminate any exclusions on account of ownership, maintenance, operation, use, loading or unloading of watercraft.

c) Coverage for work within 50 feet of railroad.

B. Workers' Compensation Insurance:

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

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

a) United States Longshoremen's and Harbor Workers' Compensation Act Endorsement.

b) Coverage B Endorsement - Maritime (Masters or Members of the Crew of Vessels), in limits of not less than $1,000,000 per occurrence.

c) Amendments to Coverage B, Federal Employers' Liability Act in limits of not less than $1,000,000 per occurrence.

C. Professional Liability Insurance:

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

D. Compliance:

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

1) 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.

31. 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.

32. NON-COLLUSIVE PROPOSING, AND CODE OF ETHICS CERTIFICATION, CERTIFICATION OF NO SOLICIATION 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 "32G.", 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.

33. 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.

34. 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" 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.

35. 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 Director of the Authority). Without the express written approval of the Chief Engineer, 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.

36. CONFLICT OF INTEREST

During the term of this agreement, the Consultant shall not participate in any way in the preparation, negotiation or award of any agreement (other than an agreement for its own services

to the Authority) to which it is contemplated the Authority may become a party, or participate in any way in the review or resolution of a claim in connection with such an agreement if the Consultant has a substantial financial interest in the Consultant or potential Consultant of the Authority or if the Consultant has an arrangement for future employment or for 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 Chief Engineer in writing of such situation giving the full details thereof. Unless the Consultant receives the specific written approval of the Chief Engineer, 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 Chief Engineer shall determine that the performance by the Consultant of a portion of its services under this Agreement is precluded by the provisions of this numbered paragraph, or a portion of the Consultant's said services is determined by the Chief Engineer to be no longer appropriate because of such preclusion, then the Chief Engineer 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.

Any entity performing services for the Authority is presumed to have a potential conflict of interest if the same entity or an affiliate also provides services to other World Trade Center stakeholders/owners (e.g., LMDC, NYSDOT, WTC Net Lessees) or their affiliates responsible for building portions of the World Trade Center site. However, if Consultant desires to provide services to such a third party and Consultant believes that Consultant can provide a mitigation plan that would address the perceived conflict of interest, Consultant, before agreeing to provide services to such a third party, shall give written notice to the Authority and submit such plan for evaluation to the Authority. The Authority will evaluate the submitted mitigation plan and notify Consultant of whether such plan is acceptable in the Authority's sole discretion. If the Authority

determines that a potential conflict of interest exists that, in the Authority's sole opinion would make Consultant's providing services to such a third party inappropriate, Consultant hereby agrees not to agree to provide services to such a third-party. This Section is a material component and is of the essence of the Agreement.

Integrity Monitor

In the event that the Authority hires an Integrity Monitor in connection with the World Trade Center Site, the Consultant and/or subconsultants will cooperate fully with the Monitor and the Port Authority, including but not limited to providing complete access to all personnel and records related to the performance of this Agreement. Failure to cooperate may result in the termination of this Agreement.

37. DEFINITIONS

As used in sections 31 to 36 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.

38. 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.

39. 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.

40. 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 NAME

By: _____

Title: _____

Date: _____

INSTRUCTIONS

If the selected Consultant firm is not located in the States of New York or New Jersey, change the number of the last Paragraph of this Agreement from "40" to "41" and insert a new Paragraph "40" as follows:

40. 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.

August 10, 2009

SUBJECT: REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT PROFESSIONAL ELECTRICAL CABLE TESTING AND ANALYSIS SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010, 2011, 2012, AND 2013 (RFP # 18427)

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 the subject services on a "call-in" basis during 2010 as part of the Materials Engineering 2010-2013 Consultant Program.

The Authority may, in its sole discretion, require the Consultant to enter into successive one-year agreements for each of the following three years: 2011, 2012, and 2013. Said agreement(s) shall be identical to this Agreement unless otherwise mutually agreed upon, as amended by the parties pursuant to the terms herein. Subsequent agreements shall be sent to the Consultant as noted above at least thirty (30) days prior to the end of the current term.

Attached is a copy of an Authority standard agreement, including Attachment A. Carefully review these documents as they form the agreement that the Authority will require you to sign in the event your Proposal is accepted.

The services of the Consultant may include the performance of work at the World Trade Center (WTC) Site. Such work may be partially or fully funded by the Federal Transit Administration (FTA). In those cases, FTA terms and conditions are required as part of the subject Agreement and are applicable solely for the performance of such services. If your firm wants to be considered for performance of FTA-funded work, a statement to that effect must be included in your transmittal letter. Review the attached "The Port Authority of New York and New Jersey - Federal Transit Administration Requirements Services Attachment" (Attachment B), which shall be in effect for the performance of such services at the WTC Site. Consultants performing FTA-funded work must comply with all FTA regulations, policies, procedures and directives, including, but not limited to those set forth in the Attachment B sited above, as well as any subsequent amendments thereto.

Firms not wishing to perform the services at the WTC Site are also encouraged to respond to this Request for Proposals (RFP).

I. PROPOSER REQUIREMENTS:

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

A. Must have in-house experience in testing Ethylene Propylene Rubber (EPR) shielded and non-shielded medium voltage cable;

B. Must have its own laboratory and the ability to perform the majority of tests without subcontracting to outside labs;

C. Must have performed physical and electrical cable tests in accordance with AEIC and ICEA Standards.

II. PROPOSAL FORMAT REQUIREMENTS:

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

A. To be acceptable, this Proposal shall be of no more than **25** pages (single-sided using 12 point or greater font size), not including resumes or documents requested pertaining to laboratory equipment and certifications. Each resume shall be 2-page maximum, single-sided using 12 point or greater font size. The Proposal pages shall be numbered and bound, or in a 3-ring binder, with "Your Firm Name", and **RFP Number 18427** 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.

C. All proposals must be delivered in sealed envelopes and/or packages. Address Proposal to: The Port Authority of New York and New Jersey, One Madison Avenue, 7th Floor, New York, NY 10010, Attention: RFP Custodian. You are requested to submit one (1) reproducible original and three (3) copies, along with one (1) compact disc copy, of your Proposal for review. Notwithstanding retention of the compact disc, in case of conflict, the reproducible original of the proposals and the written hard copy Agreement, if awarded, shall take precedence over material on the compact disc.

D. In each submission to the Authority, including any return address label, information on the compact disc and information on the reproducible original and copies of the Proposal, the Proposer shall use its **FULL LEGAL NAME WITHOUT ABBREVIATIONS**. Failure to comply with this requirement may lead to delays in contract award and contract payments, which shall be the responsibility of the Proposer.

E. Submit your Proposal in sufficient time so that the Authority receives it **no later than 2:00 p.m. on September 1, 2009.** 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.

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 C signed by an officer of your company.

B. Demonstrate your compliance with the prequalification requirements listed in "Proposer Requirements" as noted above. Provide a table listing all proposed inspectors and indicate the certifications of each individual. Include copies of certifications.

C. The "multiplier" referred to in the first line of subparagraph 13.A of the accompanying standard agreement including a breakdown of said multiplier, indicating all of its components (e.g., vacation, holiday, sick pay, workers' compensation, office rent, insurance, profit).

When the work involves FTA-Funded services to be performed at the WTC Site, there is no multiplier (see subparagraph 13.B).

D. Include the resumes of all full-time engineering and technical personnel of your firm who will be assigned to perform the requested services.

E. The name(s), title(s) and hourly rate(s) for engineering and technical personnel who will be assigned to perform any services requested.

Indicate billing rates for partners or principals and actual hourly rates for all other billable employees. Compensation for premium pay (i.e. holidays, shift differentials, regular days, weekends and night work or union required payments must be included). Typical job titles may include, but are not limited to, the following:

1. Principal or Partner (Billing Rate)
2. Engineers (Actual Hourly Rate)
3. Technicians (Actual Hourly Rate)

F. For each engineering and other technical personnel referred to in subparagraph D. above, list technical qualifications and memberships in any technical associations, such as the Association of Edison Illuminating Companies (AEIC), Insulated Cable Engineers Associates (ICEA), Institute of Electrical and Electronics Engineers (IEEE), National Electrical Manufacturers Association (NEMA) and International Electrical Testing Association (NETA).

G. Unit prices for the specific items of work and/or analyses as outlined in Attachment A, Exhibit I.

H. Specific relevant experience of your firm. For all projects referenced, include the name of the company, a contact person and current telephone number for verification purposes.

I. The Consultant's proposed management approach for performing the required services, being responsive to the client's needs, keeping the client apprised of the project status and ensuring the quality of the work product.

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

K. 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.

L. The Proposer is expected to agree with the standard agreement and its terms and conditions. You should therefore not make any changes in this standard agreement, nor restate any of its provisions in your Proposal or supporting material. ***However, if the Proposer has any specific exceptions, such exceptions should be set forth in a separate letter included with its response to this RFP.*** The Authority is under no obligation to entertain or accept any such specific exceptions. Exceptions raised at a time subsequent to proposal submission will not be accepted. The scope of the tasks to be performed by you is set forth in Attachment A to the Authority's standard agreement.

FOR THE PERFORMANCE OF WORK AT THE WTC SITE:

If your firm seeks to perform its services at the WTC Site, provide the following additional information:

M. Complete and submit a copy of the attached Sample Cost Proposal Form/FTA (Exhibit II)

N. Execute and submit the certifications contained in the Appendix of Attachment B.

IV. SELECTION PROCESS:

The selection process for the performance of the subject services will include consideration of the factors listed below in order of importance.

A. The quality and depth of the experience and qualifications of the staff, including subconsultants, who will be performing services hereunder.

B. The extent and quality of experience of the firm and the quality of similar services provided to others including the demonstrated ability to complete the services in accordance with the project schedule.

C. The Consultant's proposed management approach for the performance of services hereunder.

After consideration of the following technical factors, the cost of the Consultant's services will be evaluated on a best buy/best value basis.

V. ADDITIONAL INFORMATION:

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

It is Authority policy that its consultants, contractors and vendors comply with the legal requirements of the States of New York and New Jersey. Your attention is therefore called to

New York State's requirements that certain consultants, contractors, affiliates, subcontractors 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.

Your attention is directed to Paragraph 27 of the Authority's standard agreement in which the Chief Engineer has stated the goals for Minority Business Enterprise participation. A listing of certified MBE/WBE firms is available to you at your request.

After a review of all proposals received, the Authority will forward two copies of the Agreement and Attachment A thereto to the selected firm(s) who shall sign and return both copies. The return of one copy executed by the Authority will effectuate the Agreement.

Should you have any questions, please e-mail them to Ms. Isabel Amado, Principal Contract Specialist at iamado@panynj.gov. All questions must be received at least five (5) working days prior to the proposal due date. Neither Ms. Amado, nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate. For RFP updates and Addenda, if any, Proposers are encouraged to periodically access the Authority website at http://www.panynj.gov/DoingBusinessWith/contractors/html/current.php#prof_ad. You should therefore monitor the advertisement on said website, as appropriate, to ensure you are aware of changes, if any.

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.

The sole administrative remedy for protesting procurement decisions is located at the following link: http://www.panynj.gov/DoingBusinessWith/contractors/pdfs/Protest_Procedures.pdf.

Proposal preparation costs are not reimbursable by the Authority, if any. 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 unqualified right, in its sole and absolute discretion, to reject all Proposals, to waive defects in Proposals, to undertake discussions and modifications with one or more Consultants and to proceed with that Proposal or modified Proposal, if any, which in its judgment will, under all the circumstances, best serve the public interest.

Sincerely yours,

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

Attachments

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL ELECTRICAL CABLE TESTING AND ANALYSIS SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010

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."

II. SCOPE OF WORK

The services of the Consultant shall generally consist of performing expert testing and analysis of electrical cable or its components and /or electrical equipment to determine electrical properties and characteristics.

The Consultant shall provide equipment, materials and labor required to sample, test and analyze electrical equipment and their components. The work shall be performed at the Consultant's laboratory or at a manufacturer's plant as appropriate and as approved in advance by the Authority.

The Authority reserves the right to make changes that are within the general scope of this Agreement. Such changes will be authorized only upon the issuance of a written change order. In the even such change order authorizes additional work, such work shall be compensated in accordance with the rates as set forth in this Agreement. If no such rates are applicable, then the parties will negotiate compensation that is mutually acceptable. The Authority may require that such additional work to commence prior to the completion of negotiation of additional compensation, if circumstances require expeditious performance for safety, schedule maintenance, or other similar exigent circumstances.

III.DESCRIPTION OF CONSULTANT'S TASKS

Specific tasks may include, but shall not be limited to the following:

A. Perform laboratory analyses and tests (electrical, physical and microscopic as listed on the attached pricing schedule {Exhibit I}) to determine quality, integrity and condition of samples.

B. Perform failure analyses of submitted samples to determine mode and cause of failures.

C. Perform evaluation studies on cable construction as required by the Authority.

D. Perform in-plant inspection and acceptance testing supervision.

E. Prepare final reports documenting all findings.

F. Provide technical expertise at meetings to answer questions pertaining to cable design and testing.

IV. CONDITIONS AND PRECAUTIONS

A. General

The Consultant shall immediately inform the Authority of any unsafe condition discovered at any time during the course of this work.

Vehicular and/or pedestrian traffic shall have priority over any and all to the Consultant's operations.

B. Work Areas

The Consultant shall limit his work to the area(s) necessary for the performance of such work and shall not interfere with the operation of the facility without first obtaining specific approval from the Chief Engineer.

The Consultant shall not permit any objects or pieces of equipment to lie unattended on sidewalks, roadways or structures at any time.

C. Work Hours

The Consultant shall coordinate his work at the site(s) with the Project Manager.

In any case, no work shall be performed at the site on a legal holiday of either the State of New York or the State of New Jersey.

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THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY
FEDERAL TRANSIT ADMINISTRATION REQUIREMENTS SERVICES
ATTACHMENT B

I. ORGANIZATIONAL CONFLICT OF INTEREST 2

II. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION TERMS 2

III. FEDERAL CHANGES 3

IV. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES ... 3

V. CERTIFICATION - DEBARMENT AND SUSPENSION 3

VI. CERTIFICATION - LOBBYING RESTRICTIONS –CONTRACTS EXCEEDING $100,000 5

VII. ACCESS TO RECORDS AND REPORTS 11

VIII. CIVIL RIGHTS 12

IX. CARGO PREFERENCE - USE OF UNITED STATES FLAG VESSELS .. 13

X. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS – CONTRACTS EXCEEDING $2000 13

XI. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – CONTRACTS EXCEEDING $100,000 21

XII. SEISMIC SAFETY 22

XIII. ENERGY CONSERVATION 22

XIV. CLEAN WATER REQUIREMENTS – CONTRACTS EXCEEDING $100,000 22

XV. CLEAN AIR REQUIREMENTS – CONTRACTS EXCEEDING $100,000 22

XVI. FLY AMERICA 22

XVII. CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS 23

XVIII. PREFERENCE FOR RECYCLED PRODUCTS 23

XVIX. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS 23

XX. TRANSIT EMPLOYEE PROTECTIVE REQUIREMENTS 24

XXI. PROTECTION OF SECURITY INFORMATION 24

XXII. INTEGRITY MONITOR 25

XXIII. CONFLICT OF INTEREST MITIGATION PLAN 26

APPENDIX 27

I. ORGANIZATIONAL CONFLICT OF INTEREST

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

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

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

B. The Contractor, by submitting its bid or proposal, agrees to the above stated conditions and terms and further agrees to perform all duties under the contract and, in doing so, not to enter into contractual agreements with Authority prime contractors and first-tier subcontractors in such a way as to create an organizational conflict of interest.

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

II. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION TERMS

This Agreement is anticipated to be partially funded by the Federal Transit Administration, pursuant to the Agreement entitled, "United States of America Department of Transportation Federal Transit Administration – Master Agreement for Lower Manhattan Recovery Grants", dated May 16, 2003, ("Master Agreement") which is attached hereto and incorporated herein by reference.

All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E as modified by LMRO Third Party Contracting Requirements, dated August 21, 2003, are attached hereto and incorporated herein by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests which would cause the Authority to be in violation of the FTA terms and conditions.

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

III. FEDERAL CHANGES

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

IV. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

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

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

V. CERTIFICATION - DEBARMENT AND SUSPENSION

This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CRF 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CRF 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Port Authority of New York and New Jersey. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to the Port Authority of New York and New Jersey, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

A. FTA requires that each potential Contractor, for major third party contracts, complete a certification entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion" for itself and its principals and requires each Subcontractor or Supplier [for Subcontracts and Supplier agreements expected to equal or exceed the Federal procurement small purchase threshold fixed at 10 U.S.C. 253(g) (currently $25,000)] to complete a certification entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tiered Covered Transactions" for itself and its principals. Copies of the required Certification forms and accompanying instructions are set forth in the Appendix to this Attachment.

B. In the event that the Contractor has certified prior to award that it is not proposed for debarment, debarred, suspended, or voluntarily excluded from covered transactions by any Federal Department or agency and such certification is found to be false, this Contract may be canceled, terminated or suspended by the Authority and the Contractor will be liable for any and all damages incurred by the Authority because of such cancellation, termination or suspension because of such false certification.

C. The Contractor shall obtain certifications from all known potential Subcontractors and Suppliers [for which payments are expected to equal or exceed the Federal procurement small purchase threshold fixed at 10 U.S.C. 253(g) (currently $25,000)] and submit such certifications to the address set forth in E below.

D. Prior to the award of any Subcontracts or Supplier agreements expected to equal or exceed the Federal procurement small purchase threshold fixed at 10 U.S.C. 253(g) (currently $25,000), regardless of tier, any prospective Subcontractor or Supplier who has not previously submitted a certification for this Contract must execute and submit to the Contractor a certification in the form annexed in the Appendix to this Attachment which will be deemed a part of the resulting Subcontract and Supplier agreement.

E. The originals of any Certifications or correspondence relating hereto shall be sent by the Contractor to the Director of Procurement, One Madison Avenue, 7th Floor, New York, NY 10010.

F. The Contractor shall not knowingly enter into any Subcontracts or Supplier agreements with a person that is proposed for debarment, debarred, suspended, declared ineligible or voluntarily excluded from covered transactions.

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

VI. CERTIFICATION - LOBBYING RESTRICTIONS –CONTRACTS EXCEEDING $100,000

A. Definitions as used in this Clause:

"Agency," as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1). As used in the Certification set forth in the Appendix to this Attachment, it also includes any other public agency.

"Covered Federal action" means any of the following Federal actions:

1. The awarding of any Federal contract;
2. The making of any Federal grant;
3. The making of any Federal loan;
4. The entering into of any cooperative agreement; and
5. The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. As used in the above referenced Certification, it includes the award of the contract with which it is associated.

"Indian tribe" and "tribal organization" have the meaning provided in Section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employees
of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government. It also includes a bi-state agency.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

1. An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment;
2. A member of the uniformed services as defined in section 101(3), title 37, United States Code;
3. A special government employee as defined in Section 202, title 18, United States Code;

4. An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code Appendix 2; and
5. An employee of a bi-state agency.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian Organization with respect to expenditures specifically permitted by other Federal law.

"Reasonable Compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable Payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient" includes all contractors and subcontractors at any tier in connection with a Federal Contract. The term excludes an Indian Tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly Employed" means, with respect to an officer or employee of a person requesting or receiving a Federal Contract, an officer or employee who is employed by such person for at least one hundred and thirty (130) working days within one (1) year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than one hundred and thirty (130) working days within one (1) year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for one hundred and thirty (130) working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-state, regional, or interstate entity having governmental duties and powers.

B. Prohibition

1. Section 1352 of title 31, United States Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making

of any Federal loan; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. For the purposes of the Certification included in the Appendix to this Attachment, it includes the award of the associated contract.

2. The prohibition does not apply as follows:

   a. Agency and legislative liaison by own employees.

      (i) The prohibition on the use of appropriated funds, in subparagraph B.1.) of this Section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or the contract associated with the certification if the payment is for agency and legislative liaison activities not directly related to a covered Federal Action.

      (ii) For purposes of subparagraph B. 2.) a.(i) of this Section, providing any information specifically requested by an agency or Congress is allowable at any time.

      (iii) For purposes of subparagraph B. 2.) a.(i) of this Section, the following agency and legislative liaison activities are allowable at any time only where they are not related to specific solicitation for any covered Federal action.

         (a) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sales and service capabilities; and,

         (b) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

      (iv) For purposes of paragraph B. 2)a.(i) of this Section, the following agency and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered Federal action:

         (a) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

         (b) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

         (c) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

      (v) Only those activities expressly authorized by subparagraph B. 2)a. of this Section are allowable under subparagraph B. 2)a.

b. Professional and Technical Services by Own Employees.

(i) The prohibition on the use of appropriated funds, in subparagraph B. of this Section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or an extension, continuation, renewal, amendment, or modification of a Federal contract or the contract associated with the certification if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that contract.

(ii) For purposes of subparagraph B. 2.) b. (i) of this Section, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this Section unless they provided advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this Section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this Section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(iii) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(iv) Only those services expressly authorized by subparagraph B. 2.) b. this Section are allowable under subparagraph B. 2.) b.

c. Reporting for Own Employees.

No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

d. Professional and Technical Services by Other than Own Employees.

(i) The prohibition on the use of appropriated funds, in subparagraph B. l.) of this Section, does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.

(ii) For purposes of subparagraph B. 2.) d. (i) of this Section, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this Section unless they provided advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this Section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this Section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(iii) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or

regulation, and any other requirements in the actual award documents.

(iv) Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(v) Only those services expressly authorized by subparagraph B. 2.) d. of this Section are allowable under subparagraph B. 2.) d.

C. Disclosure

1. Each person who requests or receives from the Authority a Contract with Federal assistance shall file with the Authority a certification entitled "Certification Regarding Lobbying Pursuant to 31 U.S.C. 1352," as set forth in the Appendix to this Attachment that the person has not made, and will not make, any payment prohibited by subparagraph B. of this Clause.

2. Each person who requests or receives from the Authority a Contract with Federal assistance shall file with the Authority a disclosure form entitled "Disclosure of Lobbying Activities Pursuant to 31 U.S.C. 1352" (Standard Form-LLL), as set forth in the Appendix to this Attachment, if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph B. of this Clause if paid for with appropriated funds.

3. Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph C.2) of this Section. An event that materially affects the accuracy of the information reported includes:

   a. A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

   b. A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

   c. A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

4. Any person who requests or receives from a person referred to in subparagraph C.1) of this Section a subcontract exceeding $100,000 at any tier under a Federal contract shall file a certification, and a disclosure form, if required, to the next tier above.

5. All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in subparagraph C.1) of this Section. That person shall forward all disclosure forms to the Authority.

D. Agreement

In accepting any contract resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this Clause.

E. Penalties

1. Any person who makes an expenditure prohibited under subparagraph A of this Clause shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

2. Any person who fails to file or amend the disclosure form to be filed or amended if required by the Clause, shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. Contractors may rely without liability on the representations made by their Subcontractors in the certification and disclosure form.

F. Cost Allowability

Nothing in this Clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation. Conversely, costs made specifically unallowable by the requirements in this Clause will not be made allowable under any of the provisions of Part 31 of the Federal Acquisition Regulation.

VII. ACCESS TO RECORDS AND REPORTS

The Contractor agrees to provide the Authority, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor also agrees, pursuant to 49 CFR 633.15 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to the Contractor's records and construction sites pertaining to the project.

The Contractor agrees to provide the Authority, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions.

The Contractor shall make available records related to the contract to the Authority, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

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

The Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after final payment is made by the Authority and all other pending matters are closed, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case the Contractor agrees to maintain same until the Authority, the FTA Administrator, the

Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

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

VIII. CIVIL RIGHTS

A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, and section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

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

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

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

3. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans

with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

C. The Contractor also agrees to include these requirements in each subcontract related to this project, modified only if necessary to identify the affected parties.

IX. CARGO PREFERENCE - USE OF UNITED STATES FLAG VESSELS

If this Contract involves equipment, materials, or commodities which may be transported by ocean vessels, the Contractor herein agrees:

A. To utilize privately owned United States-flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

B. To furnish within twenty (20) days following the date of loading for shipments originating within the United States or within thirty (30) working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) above to the FTA Administrator and grantee (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20230.

C. To include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

X. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS – CONTRACTS EXCEEDING $2000

The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, *et seq.* and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that "at least partly are financed by a loan or grant from the Federal Government." 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i)(5). The Acts apply to any construction contract over $2,000. 40 USC 3142(a), 29 CFR 5.5(a). 'Construction,' for purposes of the Acts, includes "actual construction, alteration and/or repair, including painting and decorating." 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (*see* 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below and are applicable if this Contract is a construction contract (as delineated above) over $2000.

A. Minimum Wages

1. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the

full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which, if applicable, is attached hereto and made a part hereof (the attachment is the most current determination), regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Determinations may change during the term of the Contract, and the wages and fringe benefits required by the most recent determination of the Secretary of Labor are those to be used.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (A)(4) of this Section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (A)(2) of this Section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

   (i) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination;

   (ii) The classification is utilized in the area by the construction industry;

   (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

   (iv) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

b. If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

d. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs A (2)(ii) (b) or (c) of this Section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

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

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

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

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

b. If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

d. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs A (2)(ii)(b) or (c) of this Section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

B. Withholding

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

of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Authority may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

C. Payrolls and Basic Records

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

2. a. The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Authority for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

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

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

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

c. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph C(2)(b) of this Section.

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

3. The Contractor or subcontractor shall make the records required under paragraph C(1) of this Section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

D. Apprentices and Trainees

1. Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen

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

2. Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on

the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

E. Compliance with Copeland Act Requirements

The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

F. Subcontracts

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

G. Contract Termination: Debarment

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

H. Compliance with Davis-Bacon and Related Act Requirements

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

I. Disputes Concerning Labor Standards

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

J. Certification of Eligibility -

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

2. No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
3. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

XI. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – CONTRACTS EXCEEDING $100,000

The Contract Work Hours and Safety Standards Act applies to grantee contracts and subcontracts under 40 USC 3701(b)(1)(B)(iii) and (b)(2), 29 CFR 5.2(h), 49 CFR 18.36(i)(6) for contracts for construction, and non-construction projects that employ "laborers or mechanics on a public work, where the contract amount is greater than $100,000.

A. Overtime Requirements

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

B. Violation; liability for unpaid wages; liquidated damages

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

C. Withholding for unpaid wages and liquidated damages

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

D. Subcontracts

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs A through D of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime

contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through D of this Section.

XII. SEISMIC SAFETY

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

XIII. ENERGY CONSERVATION

The Contractor agrees to comply with the mandatory energy efficiency standards and policies within the applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §6321 et seq. The Contractor also agrees to ensure that all work performed under this Contract including work performed by a Subcontractor is in compliance with the requirements of this Section.

XIV. CLEAN WATER REQUIREMENTS – CONTRACTS EXCEEDING $100,000

A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §1251 et seq.

B. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

C. The Contractor also agrees to include the requirements of this Article in all subcontracts exceeding $100,000 issued pursuant to this Contract.

XV. CLEAN AIR REQUIREMENTS – CONTRACTS EXCEEDING $100,000

A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §7401 et seq. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

B. The Contractor also agrees to include the requirements of this Clause in all subcontracts exceeding $100,000 issued pursuant to this Contract.

XVI. FLY AMERICA

The Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for the Project unless that air transportation

is provided by U.S.-flag air carriers to the extent service by U.S.-flag air carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and with U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143.

XVII. CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

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

A. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

B. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

XVIII. PREFERENCE FOR RECYCLED PRODUCTS

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recover Act (RCRA), as amended (42.U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

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

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

B. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under this Contract, financed in whole or in part with Federal assistance, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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

TRANSIT EMPLOYEE PROTECTIVE REQUIREMENTS

To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

XX. PROTECTION OF SECURITY INFORMATION

A. The Contractor, Subcontractors and others requiring access to Confidential and Privileged (C&P) security information and Sensitive Security Information (SSI) shall also be required to implement uniform security procedures regarding the identification, handling, care and storage of C&P security information belonging to the Authority; and SSI as defined in 49 CFR Parts 15 and 1520. Port Authority C&P security information is information that, if subject to unauthorized disclosure, access, alteration, loss or misuse would be detrimental to the public interest and/or might adversely affect, or compromise, public safety or security as it relates to Port Authority property, facilities, systems and/or operations, or which might otherwise adversely affect homeland security.

The Authority has developed requirements and other safeguards that are necessary both to prevent unauthorized disclosure of C&P security information and to control the authorized disclosure of this information for use internally within the Authority and when released by the Authority to outside entities for legitimate business purposes. These requirements and safeguards may be found in the Handbook for Protecting Security Information (November 1, 2004) and the Project's Security Information Practices and procedures manual, both of which will be made available to the Contractor and each Subcontractor. Each Contractor, Subcontractor and their staffs shall follow and implement the requirements and safeguards set forth in the aforementioned Handbook. Further, the staffs of the Contractor, Subcontractors and others requiring access to C&P security information and SSI may also be required to sign a Non-Disclosure/ Confidentiality Agreement (NDA), or an Acknowledgement thereof where an executed NDA is in place, prior to performing work activities in connection with this Contract.

B. The Contractor, each Subcontractor and others requiring access to C&P security information and SSI, shall appoint a senior management level employee to be the company's Security Information Manager (SIM). The SIM is responsible for implementing and maintaining the firm's Program For Protecting C&P security information and/or SSI. A deputy SIM (DSIM) shall also be appointed in case the SIM is unavailable for any reason.

C. The SIM shall prepare an Authorized Personnel Contract Project List - a list of employees who are authorized to access C&P security information and the date each executed the NDA. A copy of this list shall be provided to the Authority and updated monthly. This list will be used to verify that individuals have been briefed into the program and are certified for access to C&P security information.

Protection of C&P security information and SSI is a material obligation of the Contractor hereunder and failure to do so is grounds for termination for cause.

In addition, an individual's access to C&P security information and SSI may be contingent upon the satisfactory completion of a security background check for such individual and proof of the implementation of satisfactory procedures for safeguarding such C&P security information and/or SSI.

Unauthorized disclosure of SSI may be grounds for a civil penalty and/or other enforcement or corrective action by the United States Department of Transportation and/or the United States Department of Homeland Security against individuals or entities they deem appropriate including but not limited to the Contractor, its Subcontractors and their staffs. Corrective action may include issuance of an order requiring retrieval of SSI to remedy unauthorized disclosure or an order to cease future unauthorized disclosure.

D. The Contractor shall include and require the inclusion of this numbered provision in all subcontracts and contracts for Work, services or supplying materials required for this Contract of every tier.

XXI. INTEGRITY MONITOR

In the event that the Port Authority hires an Integrity Monitor in connection with the World Trade Center Site, the Consultant and/or subconsultants will cooperate fully with the Monitor and the Port Authority, including but not limited to providing complete access to all personnel and records related to the performance of this Agreement. Failure to cooperate may result in the termination of this Agreement.

XXIII. CONFLICT OF INTEREST MITIGATION PLAN

In the opinion of the Authority, any entity performing services for the Authority or other WTC stakeholders/owners, such as LMDC, NYSDOT, WTC Net Lessee, responsible for building portions of the WTC site has a potential conflict of interest with the performance of services under this Agreement during its pendancy. However, if the Consultant desires to enter into such a third party relationship and believes that it can provide a mitigation plan that would address the Authority's perceived conflict of interest, it shall, before entering into such relationship, give written notice of its interest to the Authority and submit such plan for evaluation to the Authority. The Authority will evaluate the submitted mitigation plan and notify the Consultant of its decision. In the event the Authority determines that a conflict of interest exists which in its sole opinion would make such third party relationship inappropriate, the Consultant hereby agrees not to enter into such relationship. This provision is of the essence of this Agreement.

APPENDIX

CERTIFICATION REGARDING LOBBYING PURSUANT TO 31 U.S.C. 1352

The undersigned

_____

(name of authorized officer)

certifies, to the best of my knowledge and belief, that:

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

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

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

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

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

Executed this day _____ of _____, 20_____.

By: _____ Signature of Authorized Official

_____ Official Name and Title of Authorized Official

STANDARD FORM LLL - DISCLOSURE OF LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

1. Type of Federal Action:
[ ] a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
[ ] a. bid//offer/application
b. Initial award
c. post-award

3. Report Type:
[ ] a. initial filing
b. material change
For Material Change Only:
year quarter
_____
date of last report

4. Name and Address of Reporting Entity:

_____
_____
_____
_____

Tier___, *if known:*
Congressional District, *if known:*
_____

5. If Reporting Entity in No.4 is a Subawardee, Enter Name and Address of Subawardee:

_____
_____
_____
_____

Congressional District, *if known:*
_____

6. Federal Department/Agency:

_____

7. Federal Program Name/Description:

_____
_____ CFDA Number, *if applicable:*

8. Federal Action Number, *if known:*

_____

9. Award Amount, *if known:*
$_____

10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*

_____
_____
_____

b. Individuals Performing Services *(including address if different from No.10a)*

_____
(last name, first name, MI):
_____
_____

11. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more that $100,000 for such failure.

Signature _____
Print Name _____
Title _____
Telephone No. _____ **Date:** _____

INSTRUCTIONS FOR COMPLETION OF DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s} performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

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

1. The prospective lower tier participant,

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

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

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

Executed this day

_____ of _____, 20_____.

_____

BY SIGNATURE OF AUTHORIZED OFFICIAL

_____

NAME AND TITLE OF AUTHORIZED OFFICIAL

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

1. By signing and submitting this Proposal, the prospective lower tier participant is providing the signed certification set out on the previous page.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Authority may pursue available remedies, including suspension and/or debarment.

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

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. The Proposer may contact the Procurement Representative for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the Authority.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.

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

9. Except for transactions authorized under sub-paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the Authority may pursue available remedies including suspension and/or debarment.

EXHIBIT I

PERFORMANCE OF EXPERT PROFESSIONAL ELECTRICAL CABLE TESTING AND ANALYSIS SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010

PRICING SCHEDULE

	PRICE
INVESTIGATION OF AIRPORT CABLES	
Cables	
Specific surface resistivity – tested as received	$_____
- tested after aging	$_____
Trip-tracking test (per day)	$_____
Modified trip-tracking test with constant voltage applied across insulation (per day)	$_____
Insulated Wires	
Insulation resistance	$_____
Breakdown strength	$_____
Examination of failure	$_____
Collecting photographic evidence (per picture)	$_____
"U" blend high voltage discharge tests (6 hrs.)	$_____
Connectors	
Insulation resistance	$_____
Surface resistivity	$_____
Leakage current	$_____
Airport Lighting Transformers	
Dissection	$_____
Leakage current between primary and secondary after immersion in liquid	$_____
Surface resistivity of molded booths	$_____
Liquids	
Conductivity	$_____

CABLE ACCEPTANCE TESTS

	Signal	600 V Power	2 kV DC Traction	5 kV Airport Lighting
On short samples (2 – 3 ft.)				
Complete dimensional analysis	$_____	$_____	$_____	$_____
Microscopic examination for voids, contaminants and protrusions	$_____	$_____	$_____	$_____
Hot creep test	$_____	$_____	$_____	$_____
DC resistance (high precision)	$_____	$_____	$_____	$_____
On long samples (25 – 100 ft.)				
AC high voltage time test	$_____	$_____	$_____	$_____
DC high voltage time test	$_____	$_____	$_____	$_____

SHIELDED POWER CABLES

		5 kV EPR	15 kV EPR	27-35 kV EPR	27 kV Paper-Oil
On short samples (2 – 3 ft.)					
Complete dimensional analysis	1/C	$_____	$_____	$_____	$_____
	3/C	$_____	$_____	$_____	$_____
Microscopic examination for voids, contaminants and protrusions		$_____	$_____	$_____	$_____
Stripping force to remove insulation shield from insulation		$_____	$_____	$_____	$_____
Volume resistivity of the cond. and ins. shield at two temperatures each		$_____	$_____	$_____	$_____
Hot creep test		$_____	$_____	$_____	$_____
Mechanical integrity	1/C	$_____	$_____	$_____	$_____
	3/C	$_____	$_____	$_____	$_____

SHIELDED POWER CABLES (cont'd)

	5 kV EPR	15 kV EPR	27-35 kV EPR	27 kV Paper-Oil
On long samples (25 – 100 ft.)				
AC high voltage time test	$_____	$_____	$_____	$_____
DC high voltage time test	$_____	$_____	$_____	$_____
Insulation resistance	$_____	$_____	$_____	$_____

Testing Jackets	5 kV	15 kV	25 kV	35 kV
Thickness of cable jacket	$_____	$_____	$_____	$_____
Tensile strength and elongation of cable jackets	$_____	$_____	$_____	$_____

Extruded Cable	5 kV	15 kV
Partial discharge	$_____	$_____
Dissipation Factor	$_____	$_____
Impulse Test – Hot	$_____	$_____

Insulated Instrumentation Cable	600 V EPR
Dimensional analysis per individual phase	$_____

Insulated Street Lighting Cable	600 V EPR
Dimensional analysis per phase	$_____
Microscopic examination for voids, contaminants and protrusions	$_____
Hot creep test	$_____
AC high voltage time test	$_____
Insulation resistance test	$_____

EXHIBIT II

SAMPLE COST PROPOSAL FORM/FTA

For use for FTA-funded services to be performed at the WTC Site.

The following are fully loaded hourly rates (FLHR)* by title and include all costs associated with the performance of the services, including all labor, profit and overhead/indirect expenses (see paragraph 13.B of the Agreement). You may replicate these sheets if necessary to indicate additional staff.

Title	Name	FLHR	Base Labor Rate	Overhead/Indirect Expense Amount (% and $) Applied to Base Labor Rate	Profit Rate (% and $) Applied to Base Labor Rate

* Once the Agreement is executed, Exhibit II will only include the FLHR.

EXHIBIT II
SAMPLE COST PROPOSAL FORM/FTA
(continued)

Title	**Name**	**FLHR**	Base Labor Rate	Overhead/Indirect Expense Amount (% and $) Applied to Base Labor Rate	Profit Rate (% and $) Applied to Base Labor Rate

* Once the Agreement is executed, Exhibit I will only include the FLHR.

EXHIBIT III
PERFORMANCE OF EXPERT PROFESSIONAL ELECTRICAL CABLE TESTING AND ANALYSIS SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010
NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT
BETWEEN

(FIRM NAME)

AND

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (this "**Agreement**") is made as of this ____ day of _____, 2009, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (the "**Port Authority**") a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States, and having an office and place of business at 225 Park Avenue South, New York, New York, 10003, and FIRM NAME, Inc. having an office and place of business at _____(address) ("**Recipient**").

WHEREAS, the Port Authority desires, subject to the terms and conditions set forth below, to disclose to Recipient Confidential Information (as defined below) in connection with performance of expert professional electrical cable testing and analysis services as requested on a "call-in" basis during 2010; and

WHEREAS, the Recipient acknowledges that the Port Authority, in furtherance of its performance of essential and critical governmental functions relating to the Project, has existing and significant interests and obligations in establishing, maintaining and protecting the security and safety of the Project site and surrounding areas and related public welfare matters; and

WHEREAS, in furtherance of critical governmental interests regarding public welfare, safety and security at the Project site, the Port Authority has collected information and undertaken the development of certain plans and recommendations regarding the security, safety and protection of the Project site, including the physical construction and current and future operations; and

WHEREAS, the Port Authority and Recipient (collectively, the "**Parties**") acknowledge that in order for Recipient to undertake its duties and/or obligations with regard to its involvement in the Project, the Port Authority may provide Recipient or certain of its Related Parties (as defined below) certain information in the possession of the Port Authority, which may contain or include confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, relating to the Project or its occupants or other matters, the unauthorized disclosure of which could result in significant public safety, financial and other damage to the Port Authority, the Project, its occupants, and the surrounding communities; and

WHEREAS, Recipient recognizes and acknowledges that providing unauthorized access to, or disclosing such information to third parties in violation of the terms of this Agreement could compromise or undermine the existing or future guidelines, techniques and procedures implemented for the protection against terrorist acts or for law enforcement, investigation and prosecutorial purposes, and accordingly could result in significant irreparable harm and injury; and

WHEREAS, in order to protect and preserve the privilege attaching to and the confidentiality of the aforementioned information as well as to limit access to such information to a strict need to know basis, the Port Authority requires, as a condition of its sharing or providing access to such confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, that the Recipient enter into this Agreement and that its Related Parties thereafter acknowledge and agree that they will be required to treat as strictly confidential and/or privileged any of such information so provided, as well as the work product and conclusions of any assessments and evaluations or any recommendations relating thereto, and to also fully comply with applicable federal rules and regulations with respect thereto; and

WHEREAS, as a condition to the provision of such information to Recipient and certain Related Parties, the Recipient has agreed to enter into this Agreement with respect to the handling and use of such information and to cause Related Parties to join in and be bound by the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the provision by Port Authority of Information for Project Purposes (as each such term is defined below) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Recipient and each Related Party that receives such Information, the Recipient and each such Related Party agrees, as follows:

1. **Defined Terms**. In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

(a) "**Authorized Disclosure**" means the disclosure of Confidential Information strictly in accordance with the Confidentiality Control Procedures applicable thereto: (i) as to all Confidential Information, only to a Related Party that has a need to know such Confidential Information strictly for Project Purposes and that has agreed in writing to be bound by the terms of this Agreement by executing a form of Acknowledgment as set forth in Exhibit A; and (ii) as to Confidential Privileged Information, only to the extent expressly approved in writing and in advance by the Port Authority, and then only the particular Confidential Privileged Information that is required to accomplish an essential element of the Project.

(b) "**Confidential Information**" means and includes collectively, Confidential Proprietary Information, Confidential Privileged Information, and Information that is labeled, marked or otherwise identified by or on behalf of the Port Authority so as to reasonably connote that such Information is confidential, privileged, sensitive or proprietary in nature. The term Confidential Information shall also include all work product that contains or is derived from any of the forgoing, whether in whole or in part, regardless of whether prepared by the Recipient, the

Port Authority or others. The following Information shall not constitute Confidential Information for the purpose of this Agreement:

(i) Particular Information, other than Confidential Privileged Information, that is provided to the Recipient by a source other than the Port Authority, provided that such source is not subject to a confidentiality agreement, or similar obligation, or understanding with or for the benefit of the Port Authority, with respect to such Information and that the identity of such source is not itself part of such Confidential Information.

(ii) Information that is or becomes generally available to the public other than as a result of a disclosure by the Recipient or a Related Party in violation of this Agreement.

(c) "**Confidential Privileged Information**" means and includes collectively, (i) any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York, and/or New Jersey state laws or Federal laws, (ii) Critical Infrastructure Information, (iii) Sensitive Security Information, and (iv) Limited Access Safety and Security Information.

(d) "**Confidential Proprietary Information**" means and includes Information that contains financial, commercial or other proprietary, business Information concerning the Project, the Port Authority, or its facilities.

(e) "**Confidentiality Control Procedures**" means procedures, safeguards and requirements for the identification, processing, protection, handling, care, tracking and storage of Confidential Information that are required under applicable federal or state law, the Port Authority Handbook, or by the terms of this Agreement.

(f) "**Critical Infrastructure Information**" (CII) has the meaning set forth in the Homeland Security Act of 2002 (42 U.S.C. §5195c(e)) and any rules or regulations enacted pursuant thereto, including, without limitation, the Office of the Secretary, Department of Homeland Security Rules and Regulations, 6 C.F.R. Part 29 (6 U.S.C. §131-134). CII may also be referred to as "Protected Critical Infrastructure Information" or "PCII", as provided for in the referenced rules and regulations.

(g) "**Information**" means, collectively, all information, documents, data, reports, notes, studies, projections, records, manuals, graphs, electronic files, computer generated data or information, drawings, charts, tables, diagrams, photographs, and other media or renderings containing or otherwise incorporating information that may be provided or made accessible at any time, whether in writing, orally, visually, photographically, electronically or in any other form or medium, including, without limitation, any and all copies, duplicates or extracts of the foregoing.

(h) "**Limited Access Safety and Security Information**" means and includes sensitive Information, the disclosure of which would be detrimental to the public interest and might compromise public safety and/or security as it relates to Port Authority property, facilities,

systems and operations, and which has not otherwise been submitted for classification or designation under any Federal laws or regulations.

(i) "**Port Authority Handbook**" means the Port Authority of N.Y. & N.J. Information Security Handbook, a copy of which is attached hereto as Exhibit B, as may be amended by the Port Authority, from time to time.

(j) **"Project Purposes"** means the use of Confidential Information strictly and only for purposes related to Recipient's and its Related Parties' participation and involvement in the Project, and only for such period of time during which Recipient and its Related Parties are involved in Project related activities.

(k) "**Related Party**" and "**Related Parties**" means the directors, employees, officers, partners or members of the Recipient, as applicable, and the Recipient's outside consultants, advisors, accountants, architects, engineers or subcontractors or subconsultants (and their respective directors, employees, officers, partners or members) to whom any Confidential Information is disclosed or made available.

(l) **"Sensitive Security Information"** has the definition and requirements set forth in the Transportation Security Administrative Rules & Regulations, 49 CFR 1520, (49 U.S.C. §114) and in the Office of the Secretary of Transportation Rules & Regulations, 49 CFR 15, (49 U.S.C. §40119).

2. **Use of Confidential Information**. All Confidential Information shall be used by the Recipient in accordance with the following requirements:

(a) All Confidential Information shall be held in confidence and shall be processed, treated, disclosed and used by the Recipient and its Related Parties only for Project Purposes and in accordance with the Confidentiality Control Procedures established pursuant to Paragraph 2(c), below, including, without limitation, the Port Authority Handbook, receipt of which is acknowledged by Recipient and shall be acknowledged in writing by each Related Party by signing the Acknowledgment attached hereto as Exhibit A, and applicable legal requirements. Confidential Information may be disclosed, only if and to the extent that such disclosure is an Authorized Disclosure.

(b) Recipient and each Related Party acknowledges and agrees that (i) any violation by the Recipient or any of its Related Parties of the terms, conditions or restrictions of this Agreement relating to Confidential Information may result in penalties and other enforcement or corrective action as set forth in such statutes and regulations, including, without limitation, the issuance of orders requiring retrieval of Sensitive Security Information and Critical Infrastructure Information to remedy unauthorized disclosure and to cease future unauthorized disclosure and (ii) pursuant to the aforementioned Federal Regulations, including, without limitation, 49 C.F.R. §§ 15.17 and 1520.17, any such violation thereof or mishandling of information therein defined may constitute grounds for a civil penalty and other enforcement or corrective action by the United States Department of Transportation and the United States Department of Homeland Security, and appropriate personnel actions for Federal employees.

(c) Recipient and each Related Party covenants to the Port Authority that it has established, promulgated and implemented Confidentiality Control Procedures for identification, handling, receipt, care, and storage of Confidential Information to control and safeguard against any violation of the requirements of this Agreement and against any unauthorized access, disclosure, modification, loss or misuse of Confidential Information. Recipient and each Related Party shall undertake reasonable steps consistent with such Confidentiality Control Procedures to assure that disclosure of Confidential Information is compartmentalized, such that all Confidential Information shall be disclosed only to those persons and entities authorized to receive such Information as an Authorized Disclosure under this Agreement and applicable Confidentiality Control Procedures. The Confidentiality Control Procedures shall, at a minimum, adhere to, and shall not be inconsistent with, the procedures and practices established in the Port Authority Handbook.

(d) The Port Authority may request in writing that the Recipient or any Related Parties apply different or more stringent controls on the handling, care, storage and disclosure of particular items of Confidential Information as a precondition for its disclosure. The Port Authority may decline any request by the Recipient or any of its Related Parties to provide such item of Confidential Information if the Recipient or any of the Related Parties do not agree in writing to apply such controls.

(e) Nothing in this Agreement shall require the Port Authority to tender or provide access to or possession of any Confidential Information to the Recipient or its Related Parties, whether or not the requirements of this Agreement are otherwise satisfied. However, if such Confidential Information is provided and accepted, the Recipient and its Related Parties shall abide by the terms, conditions and requirements of this Agreement.

(f) The Recipient and each Related Party agrees to be responsible for enforcing the provisions of this Agreement with respect to its Related Parties, in accordance with the Confidentiality Control Procedures. Except as required by law pursuant to written advice of competent legal counsel, or with the Port Authority's prior written consent, neither the Recipient, nor any of the Related Parties shall disclose to any third party, person or entity: (i) any Confidential Information under circumstances where the Recipient is not fully satisfied that the person or entity to whom such disclosure is about to be made shall act in accordance with the Confidentiality Control Procedures whether or not such person or entity has agreed in writing to be bound by the terms of this Agreement or any "Acknowledgement" of its terms or (ii) the fact that Confidential Information has been made available to the Recipient or such Related Parties, or the content or import of such Confidential Information. The Recipient is responsible for collecting and managing the Acknowledgments signed by Related Parties pursuant to this Agreement. Recipient shall, at the Port Authority's request, provide the Port Authority a list of all Related Parties who have signed an Acknowledgment, and copies of such Acknowledgments.

(g) As to all Confidential Information provided by or on behalf of the Port Authority, nothing in this Agreement shall constitute or be construed as a waiver of any public interest privilege or other protections established under applicable state or federal law.

3. **Disclosures and Discovery Requests**. If a subpoena, discovery request, Court Order, Freedom of Information Request, or any other request or demand authorized by law seeking

disclosure of the Confidential Information is received by the Recipient or any Related Party, Recipient shall notify the Port Authority thereof with sufficient promptness so as to enable the Port Authority to investigate the circumstances, prepare any appropriate documentation and seek to quash the subpoena, to seek a protective order, or to take such other action regarding the request as it deems appropriate. In the absence of a protective order, disclosure shall be made, in consultation with the Port Authority, of only that part of the Confidential Information as is legally required to be disclosed. If at any time Confidential Information is disclosed in violation of this Agreement, the Recipient shall immediately give the Port Authority written notice of that fact and a detailed account of the circumstances regarding such disclosure to the Port Authority.

4. **Retention Limitations; Return of Confidential Information**. Upon the earlier occurrence of either the Port Authority's written request or completion of Recipient's need for any or all Confidential Information, such Confidential Information, all writings and material describing, analyzing or containing any part of such Confidential Information, including any and all portions of Confidential Information that may be stored, depicted or contained in electronic or other media and all copies of the foregoing shall be promptly delivered to the Port Authority at Recipient's expense. In addition, as to Confidential Information that may be stored in electronic or other form, such Confidential Information shall be completely removed so as to make such Confidential Information incapable of being recovered from all computer databases of the Recipient and all Related Parties. The Recipient may request in writing that the Port Authority consent to destruction of Confidential Information, writings and materials in lieu of delivery thereof to the Port Authority. The Port Authority shall not unreasonably withhold its consent to such request. If the Port Authority consents to such destruction, the Recipient and each Related Party shall deliver to the Port Authority a written certification by Recipient and such Related Party that such Confidential Information, writings and materials have been so destroyed within such period as may be imposed by the Port Authority. Notwithstanding the foregoing, to the extent required for legal or compliance purposes, the Recipient may retain a copy of Confidential Information, provided that (a) the Port Authority is notified in writing of such retention, and (b) Recipient continues to abide by the requirements of this Agreement with respect to the protection of such Confidential Information.

5. **Duration and Survival of Confidentiality Obligations**. The obligations under this Agreement shall be perpetual (unless otherwise provided in this Agreement) or until such time as the Confidential Information is no longer considered confidential and/or privileged by the Port Authority.

6. **Severability**. Each provision of this Agreement is severable and if a court should find any provision of this Agreement to be unenforceable, all other provisions of this Agreement shall remain in full force and effect.

7. **Injunctive and Other Relief**. Recipient and each Related Party acknowledges that the unauthorized disclosure and handling of Confidential Information is likely to have a material adverse and detrimental impact on public safety and security and could significantly endanger the Port Authority, its facilities (including, without limitation, the Project site), its patrons and the general public and that damages at law are an inadequate remedy for any breach, or threatened breach, of this Agreement by Recipient or its Related Parties. The Port Authority shall be entitled, in addition to all other rights or remedies, to seek such restraining orders and

injunctions as it may deem appropriate for any breach of this Agreement, without being required to show any actual damage or to post any bond or other security.

8. **Governing Law**. 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. The Port Authority (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient specifically and irrevocably consent to the exclusive jurisdiction of any federal or state court in the County of New York and State of New York with respect to all matters concerning this Agreement and its enforcement. The Port Authority (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient agree that the execution and performance of this Agreement shall have a New York situs and, accordingly, they each consent (and solely with respect to the Port Authority, subject to the terms of the Port Authority Legislation (as defined below)) to personal jurisdiction in the State of New York for all purposes and proceedings arising from this Agreement. "**Port Authority Legislation**" shall mean the concurrent legislation of the State of New York and State of New Jersey set forth at Chapter 301 of the Laws of New York of 1950, as amended by Chapter 938 of the Laws of New York of 1974 (McKinney's Unconsolidated Laws §§7101-7112) and Chapter 204 of the Laws of New Jersey of 1951 (N.J.S.A. 32:1-157 to 32:1-168).

9. **Notices**. Any notice, demand or other communication (each, a "**notice**") that is given or rendered pursuant to this Agreement by either party to the other party, shall be: (i) given or rendered, in writing, (ii) addressed to the other party at its required address(es) for notices delivered to it as set forth below, and (iii) delivered by either (x) hand delivery, or (y) nationally recognized courier service (e.g., Federal Express, Express Mail). Any such notice shall be deemed given or rendered, and effective for purposes of this Agreement, as of the date actually delivered to the other party at such address(es) (whether or not the same is then received by other party due to a change of address of which no notice was given, or any rejection or refusal to accept delivery). Notices from either party (to the other) may be given by its counsel.

The required address(es) of each party for notices delivered to it is (are) as set forth below. Each party, however, may, from time to time, designate an additional or substitute required address(es) for notices delivered to it, provided that such designation must be made by notice given in accordance with this Paragraph 9.

If to the Port Authority:	The Port Authority of New York and New Jersey 225 Park Avenue South, 12th Floor New York, NY 10003
with a copy to:	The Port Authority of New York and New Jersey 225 Park Avenue South - 15th Floor New York, NY 10003 Attn: General Counsel

If to the Recipient:

with a copy to: _____
_____
_____

10. **Entire Agreement**. This Agreement contains the complete statement of all the agreements among the parties hereto with respect to the subject matter thereof, and all prior agreements among the parties hereto respecting the subject matter hereof, whether written or oral, are merged herein and shall be of no further force or effect. This Agreement may not be changed, modified, discharged, or terminated, except by an instrument in writing signed by all of the parties hereto.

11. **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall be one and the same document.

12. **Parties Bound**. This Agreement shall be binding upon the Recipient and its respective successors. The foregoing shall not be affected by the failure of any Related Party to join in this Agreement or to execute and deliver an Acknowledgement hereof.

13. **Authority**. The undersigned individual(s) executing this Agreement on behalf of the Recipient below represent(s) that they are authorized to execute this Agreement on behalf of the Recipient and to legally bind such party.

14. **Disclosure of Ownership Rights or License**. Nothing contained herein shall be construed as the granting or conferring by the Port Authority of any rights by ownership, license or otherwise in any Information.

15. **No Liability**. Neither the Commissioners of the Port Authority, nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Recipient with any liability, or held liable to the Recipient under any term or provision of this Agreement, or because of its execution or attempted execution or because of any breach, or attempted or alleged breach thereof.

16. **Construction**. This Agreement is the joint product of the parties hereto and each provision of this Agreement has been subject to the mutual consultation, negotiation, and agreement of the parties hereto, and shall not be construed for or against any party hereto. The captions of the various sections in this Agreement are for convenience only and do not, and shall not be deemed to, define, limit or construe the contents of such Sections.

[*No further text on this page; signatures appear on next page*]

IN WITNESS WHEREOF, the Recipient has executed this Agreement as of the date first above written.

Dated: New York, New York

_____ ____, _____

RECIPIENT:
FIRM NAME

By: _____

Title: _____

Date: _____

EXHIBIT A

ACKNOWLEDGMENT BY RELATED PARTY ENTITY

The undersigned, _____ (name of authorized signatory), is the _____(Title) of _____ (name of entity), a _____(type of entity and jurisdiction of formation) ("**Related Party**"), located at _____ (address of entity), and is duly authorized to execute this Acknowledgment on behalf of the above Related Party. The above Related Party is involved with the functions of _____ (describe scope of work of Related Party) in connection with performance of expert professional electrical cable testing and analysis services as requested on a "call-in" basis during 2010 for The Port Authority of New York and New Jersey (the "**Port Authority**"). I acknowledge and confirm that the above named Related Party has been provided with a copy of and shall be bound and shall abide by all of the terms, requirements and conditions set forth in the Non Disclosure and Confidentiality Agreement dated _____ ____, _____, between _____ (the "**Recipient**") and the Port Authority (hereinafter the "**Agreement**"), and by the Port Authority Handbook described in the Agreement. Appropriate and responsible officers and employees of the Related Party have carefully read and understand the terms and conditions of the Agreement. The Related Party has notice and acknowledges that any breach or violation of such terms, requirements and conditions may result in the imposition of remedies or sanctions as set forth or otherwise described therein against such Related Party.

Signed: _____

Print Name: _____

Title: _____

Date: _____

ACKNOWLEDGMENT BY RELATED PARTY INDIVIDUAL

I, _____ (name of employee) ("**Related Party**"), am employed as a(n) _____(job title) by _____ (name of employer). I have been provided with and have read the Non Disclosure and Confidentiality Agreement between _____ (the "**Recipient**") and The Port Authority of New York and New Jersey (the "**Port Authority**") dated _____ ____, _____ (hereinafter the "**Agreement**"), and the Port Authority Handbook attached to the Agreement. I understand that because of my employer's relationship with _____ (name of Recipient, or the Port Authority if Related Party Individual is an employee of Recipient), both my employer and I may be provided with access to, and/or copies of, sensitive security materials or confidential information. If it is required for me to review or receive Confidential Information, as it is defined in the aforementioned Agreement, I acknowledge that I will be bound by each and every term and provision contained therein, and that failure to do so may include, but is not limited to, the imposition of disciplinary action and sanctions, and/or the institution of legal action seeking injunctive relief, monetary and/or criminal penalties for violation of law and/or Port Authority policies and procedures, as well as for violation of federal and/or state regulations.

To the extent that I am currently in the possession of, or have previously come into contact with, marked information as it relates to the aforementioned Agreement, I agree to conform my handling procedures for Confidential Information to the practices and procedures set forth and defined herein, or risk loss of access to said Information, removal from said Project and/or subjecting myself to the aforementioned disciplinary actions and/or civil and criminal penalties.

Signed: _____

Print Name: _____

Title: _____

Date: _____

P.A. AGREEMENT #*-10-*****
DATE

FIRM
ADDRESS
CITY, ST ZIP

Attention: CONTACT, TITLE

SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL ELECTRICAL CABLE TESTING AND ANALYSIS SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010

Dear CONTACT:

1. The Port Authority of New York and New Jersey (hereinafter referred to as the "Authority") hereby offers to retain ***. (hereinafter referred to as "the Consultant" or "you") to provide expert professional services as more fully set forth in Attachment A, which is attached hereto and made a part hereof, on a "call-in" basis during 2010.

The Authority may, in its sole discretion, require the Consultant to enter into successive one-year agreements for each of the following three years: 2011, 2012, and 2013. Said agreement(s) shall be identical to this Agreement unless otherwise mutually agreed upon, as amended by the parties pursuant to the terms herein. Subsequent agreements shall be sent to the Consultant as noted above at least thirty (30) days prior to the end of the current term.

2. 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.

3. The Authority reserves the right to make changes that are within the general scope of work of this Agreement. Such changes will be authorized only upon the issuance of a written change order. If a change order authorizes additional work, such work shall be compensated in accordance with the rates as set forth in this Agreement. If no such rates are applicable, then the parties will negotiate the mutually acceptable applicable rate(s).

4. The services of the Consultant may include the performance of work at the World Trade Center (WTC) Site. Such work may be partially or fully funded by the Federal Transit Administration (FTA). In those cases, FTA terms and conditions are required as part of the subject agreement and are applicable solely for the performance of such services. For the services that are to be performed under the subject agreement at the WTC Site and funded in whole or in part by the FTA, compensation will be set forth in the applicable task order.

The attached "The Port Authority of New York and New Jersey - Federal Transit Administration Requirements Services Attachment" (Attachment B), shall be in effect for the performance of services at the WTC Site. The Consultant performing FTA-funded work must comply with all

FTA regulations, policies, procedures and directives, including, but not limited to those set forth therein, as well as any subsequent amendments thereto.

5. This Agreement shall be signed by you, and the Director of Procurement. As used herein "Chief Engineer" shall mean the Chief Engineer, or the Deputy Chief Engineer of the Authority, acting either personally or through his 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 Chief Engineer has designated ***, Chief of Materials Engineering, to act as his duly authorized representative. The Project Manager for this project is ***, tel. ***, or e-mail address ***@panynj.gov.

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

7. 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 Chief Engineer for approval an estimated cost and staffing analysis of such services to the Authority. The Chief Engineer shall have the right to determine that specified services shall be performed on a Unit Price basis pursuant to Exhibit I. Approval of such cost and direction from the Chief Engineer 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 Chief Engineer and you shall submit to him 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.

8. 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 Chief Engineer personally, in which case the requirements of said notification shall apply.

9. The Consultant shall meet and consult with Authority staff as requested by the Chief Engineer in connection with the services to be performed herein. Any Contract Drawings and Technical Specifications and other items to be submitted or prepared by the Consultant hereunder shall be

subject to the review of the Chief Engineer. The Chief Engineer may disapprove, if in his sole opinion said items are not in accordance with the requirements of this Agreement, sound engineering principles, or are impractical, uneconomical or unsuited in any way for the purpose for which the contemplated construction is intended. If any of the said items or any portion thereof are so disapproved, the Consultant shall forthwith revise them until they meet the approval of the Chief Engineer, 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 his responsibility under this Agreement to furnish in accordance with an agreed upon schedule, a complete, practical, economical design and Contract Drawings and Technical Specifications, and corrections and changes therein which are best suited for the contemplated construction, are done in accordance with sound engineering principles and are signed and sealed by a licensed Professional Engineer.

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

11. All services performed under this Agreement will be authorized in writing. You shall render services according to each task order issued under this Agreement until the point at which the total amount to be paid to you, under the task order (the "not-to-exceed amount"), including reimbursable expenses, reaches the combined total of each of the approved estimated costs, unless you are specifically authorized in writing by change order to so continue by the Chief Engineer. If no such authorization is issued, this Agreement shall expire 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.

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

13. 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, D, and E below, subject to the limits on compensation and provisions set forth in paragraphs 7 and 11 above. Subject to the terms and conditions below, travel time is not reimbursable under subparagraphs A, B, and C hereunder.

A. Compensation for Services Not Performed at the WTC Site: The Consultant shall be compensated at an amount equal to *.** times the actual salaries paid by you to professional and technical personnel but not partners, 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 analysis 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 Chief Engineer 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 in a) accordance with the program of periodic merit and cost of living increases normally administered by it, b) are warranted by increased costs of providing services under this Agreement, c) are based upon increases in salaries and billing rates which are generally applicable to all of Consultant's clients and d) are in accordance with the Authority's salary rate increase policy for the current year for Authority employees possessing comparable skills and experience. If during any calendar year, 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 Chief Engineer 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. For services performed at the WTC Site and therefore funded in whole or in part by the FTA, the following shall apply:

The Consultant shall be compensated in accordance with the unit rates and the fully loaded hourly rate(s) (FLHR) as set forth in Exhibit II. Such FLHR includes all costs associated with the performance of the required services (all labor, profit and overhead/indirect expenses). Such overhead/indirect expenses are limited to the following: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses (unless permitted by paragraph 13.F. hereunder), fringe benefits, retirement plans, union dues, contributions and assessments required by Law, and collective bargaining, as applicable. In no case shall a reimbursable expense permitted below be allowable as an indirect expense pursuant to this paragraph.

C. 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, 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 Chief Engineer 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 Chief Engineer. 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.

D. When the method of compensation hereunder, as approved in advance and in writing by the Engineer is on a unit price basis, said unit price shall include all labor, materials, profit and overhead or other expenses relative to the performance of the required services as indicated in Exhibit I, included herewith and made a part hereof.

E. An amount equal to the amounts actually paid to subconsultants hereunder who have been retained after the written approval by the Chief Engineer 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 his services, as part of any request for approval of the subconsultant.

In the event that subconsultants are engaged for services to be performed at the WTC Site, then subcontracts therefor must contain Attachment B. Subconsultants must complete and submit the certifications contained in Attachment B. In no case can a subconsultant agreement contain a cost-plus-percentage-of cost compensation structure.

F. The Consultant shall also be compensated at an amount equal to the out-of-pocket expense, approved in advance by the Chief Engineer, 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 mailing and delivery charges for

submittal of drawings, specifications and reports; 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 Chief Engineer 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 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 his personal vehicle to provide services within the Port District the Consultant shall be reimbursed for travel expenses beyond normal commuting costs at a rate not higher than the Annual Federal Mileage Reimbursement Rate (as determined by the 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 Engineer. If the Consultant chooses to travel each day to an assignment, where it would be more economical to take a hotel room near the assignment, the maximum reimbursable travel expenses shall not exceed the daily cost for meals and lodging. Reimbursable travel as provided herein shall be limited to one round trip per week's service except when otherwise approved in advance and in writing by the Engineer. The total number of reimbursable travel hours (for travel outside the Port District) will be calculated by reducing the actual travel time by three hours. 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&ooid=16365&contentId=17943&pageTypeId=8203&contentType=GSA_BASIC&programPage=%2Fep%2Fprogram%2FgsaBasic.jsp&P=MTT

You shall obtain the Chief Engineer'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.

G. 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 architects, engineers, designers, drafters or other professional and technical employees of the Consultant for time actually spent directly in the performance of technical services hereunder and recorded on daily time records which have been approved by the employee's immediate supervisor, excluding the time of any employee of the Consultant to the extent that the time of such employee of the Consultant is devoted to typing/word processing, stenographic, clerical or administrative functions. Such functions shall be deemed to be included in the multiplier referred to in subparagraph 13.A above.

14. You shall keep, and shall cause any subconsultants under this Agreement to keep, daily records of the time spent in the performance of services hereunder by all persons whose salaries or amounts paid thereto will be the basis for compensation under this Agreement as well as records of the amounts of such salaries and amounts actually paid for the performance of such services and records and receipts of reimbursable expenditures hereunder, and, notwithstanding any other 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.

15. 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 Engineer. Upon receipt of the foregoing, the Chief Engineer 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 Chief Engineer, advance to you by check the sum certified minus all prior payments to you for your account.

16. 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 Chief Engineer through the date of termination, minus all prior payments to you.

17. 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 Chief Engineer. Such approval may be withheld if for any reason the Chief Engineer believes that the publication of such information would be harmful to the public interest or is in any way undesirable.

18. 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 Chief Engineer, 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 Chief Engineer.

19. 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 other rights or obligations shall arise out of such additional services.

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

21. Mylars of the contract drawings, originals of technical specifications, estimates, reports, records, data, charts, documents, renderings, computations, computer tapes or disks, and other

papers of any type whatsoever, whether in the form of writing, figures or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of the Authority, and the Authority shall have the right to use or permit the use of them and 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.

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

23. Notwithstanding anything to the contrary herein, the work product of the Consultant, its officers, agents, employees, or sub-consultants which is produced in accordance with the Agreement, whether it consists of computer programming or documentation thereof, including source code, and on any media whatsoever, shall be deemed to belong exclusively to the Authority, and the Authority shall have the exclusive right to obtain and to hold in its own name any and all copyrights, patents, trade secrets or other proprietary rights and protection as may be produced as part of this work product, including the right to extensions or renewals, where

appropriate. The work product shall not be destroyed or released to anyone outside of the Engineering Department without express written authorization of the Chief Engineer. The Authority shall have the exclusive right to use or permit the use of them and any ideas or methods represented by them for any purpose and at any time without other compensation than that specifically provided for herein. You agree to contract with your employees for the benefit of the Authority to insure that the Authority has such rights and to give to the Authority or any party designated by the Authority all assistance reasonably required to perfect the rights herein above stated. You shall indemnify and hold harmless the Authority against any claims of proprietary rights infringement arising out of such use of your work product.

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

25. You shall promptly and fully inform the Chief Engineer in writing of any 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.

26. 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 Chief Engineer. 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.

27. 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 Chief Engineer 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 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.

28. NOTIFICATION OF SECURITY REQUIREMENTS

A. 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.

B. Confidential information shall mean all information disclosed to Consultant or Consultant's employees which relates to the Authority's past, present, and future research, development and business activities including, but not limited, to software and documentation licensed to the Authority or proprietary to the Authority. Confidential information shall also mean any other tangible or intangible information or materials including, but not limited, to computer identification numbers, access codes, passwords, and reports obtained during the performance of Consultant's services under this Agreement. Consultant shall hold all such confidential information in trust and confidence for the Authority, and agrees that Consultant and its employees, agents and representatives will not, during or after the termination or expiration of this Agreement, disclose to any person, firm or corporation, nor use for its own business or benefit, any information obtained by it under or in connection with the supplying of services contemplated by this Agreement. Consultant and its employees, agents and representatives shall not violate in any manner any patent, copyright, trade secret or other proprietary right of the Authority or third persons in connection with their services hereunder, either before or after termination or expiration of this Agreement. Consultant and its employees, agents and representatives shall not willfully or otherwise perform any dishonest or fraudulent acts, breach any security procedures, or damage or destroy any hardware, software or documentation, proprietary or otherwise, in connection with their services hereunder.

Consultant's obligations with respect to confidentiality and document security are set forth in a Non-Disclosure and Confidentiality Agreement, between the Authority and Consultant (the "Confidentiality Agreement"; Exhibit III). Consultant hereby agrees to execute the Confidentiality Agreement, and hereby agrees the Confidentiality Agreement is and remains in full force and effect in accordance with its terms.

Without the express written approval of the Chief Engineer, you shall keep confidential, and shall require your subconsultants and your employees to keep confidential (a) all information disclosed by the Authority or its consultants or contractors to you or (b) developed by you or your subconsultants in the performance of services hereunder. At the direction of the Authority, you will be required to have your employees, subconsultants and their employees execute, non-disclosure agreements. Disclosure of any such information shall constitute a material breach of the Agreement.

29. 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.

30. 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 (not less than $25,000,000 combined single limit per accident on airside). 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 Engineer for specific services hereunder and include the additional premium cost thereof as an out-of-pocket expense:

   a) Endorsement to eliminate any exclusions applying to the underground property, explosion and collapse hazards.

   b) Endorsement to eliminate any exclusions on account of ownership, maintenance, operation, use, loading or unloading of watercraft.

   c) Coverage for work within 50 feet of railroad.

B. Workers' Compensation Insurance:

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

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

   a) United States Longshoremen's and Harbor Workers' Compensation Act Endorsement.

   b) Coverage B Endorsement - Maritime (Masters or Members of the Crew of Vessels), in limits of not less than $1,000,000 per occurrence.

   c) Amendments to Coverage B, Federal Employers' Liability Act in limits of not less than $1,000,000 per occurrence.

C. Professional Liability Insurance:

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

D. Compliance:

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

1) 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.

31. 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.

32. NON-COLLUSIVE PROPOSING, AND CODE OF ETHICS CERTIFICATION, CERTIFICATION OF NO SOLICIATION 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 "32G.", 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.

33. 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.

34. 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" 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.

35. 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 Director of the Authority). Without the express written approval of the Chief Engineer, 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.

36. CONFLICT OF INTEREST

During the term of this Agreement, the Consultant shall not participate in any way in the preparation, negotiation or award of any agreement (other than an agreement for its own services to the Authority) to which it is contemplated the Authority may become a party, or participate in any way in the review or resolution of a claim in connection with such an agreement if the Consultant has a substantial financial interest in the Consultant or potential Consultant of the Authority or if the Consultant has an arrangement for future employment or for 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 Chief Engineer in writing of such situation giving the full details thereof. Unless the Consultant receives the specific written approval of the Chief Engineer, 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 Chief Engineer shall determine that the performance by the Consultant of a portion of its services under this Agreement is precluded by the provisions of this numbered paragraph, or a portion of the Consultant's said services is determined by the Chief Engineer to be no longer appropriate because of such preclusion, then the Chief Engineer 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.

Any entity performing services for the Authority is presumed to have a potential conflict of interest if the same entity or an affiliate also provides services to other World Trade Center stakeholders/owners (e.g., LMDC, NYSDOT, WTC Net Lessees) or their affiliates responsible for building portions of the World Trade Center site. However, if Consultant desires to provide services to such a third party and Consultant believes that Consultant can provide a mitigation plan that would address the perceived conflict of interest, Consultant, before agreeing to provide services to such a third party, shall give written notice to the Authority and submit such plan for evaluation to the Authority. The Authority will evaluate the submitted mitigation plan and notify Consultant of whether such plan is acceptable in the Authority's sole discretion. If the Authority determines that a potential conflict of interest exists that, in the Authority's sole opinion would make Consultant's providing services to such a third party inappropriate, Consultant hereby agrees not to agree to provide services to such a third-party. This Section is a material component and is of the essence of the Agreement.

Integrity Monitor

In the event that the Port Authority hires an Integrity Monitor in connection with the World Trade Center Site, the Consultant and/or subconsultants will cooperate fully with the Monitor and the Port Authority, including but not limited to providing complete access to all personnel and records related to the performance of this Agreement. Failure to cooperate may result in the termination of this Agreement.

37. DEFINITIONS

As used in sections 31 to 36 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.

38. 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.

39. 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.

40. 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 NAME

By: _____

Title: _____

Date: _____

INSTRUCTIONS

If the selected Consultant firm is not located in the States of New York or New Jersey, change the number of the last Paragraph of this Agreement from "40" to "41" and insert a new Paragraph "40" as follows:

40. 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.

August 10, 2009

SUBJECT: REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT PROFESSIONAL SMOOTHNESS TESTING OF PORTLAND CEMENT CONCRETE AND BITUMINOUS CONCRETE INSPECTION SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010, 2011, 2012 AND 2013

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 the subject services on a "call-in" basis during 2010 as part of the Materials Engineering 2010-2013 Consultant Program.

At the Authority's discretion, the Consultant may be required to enter into a new agreement for each of the following three years: 2011, 2012, and 2013. Said agreement(s) shall be identical to this Agreement unless otherwise mutually agreed upon by the parties. Subsequent agreements shall be sent to the Consultant as noted above at least 30 days prior to the end of the current term.

Attached is a copy of an Authority standard agreement, including Attachment A. Carefully review these documents as they form the agreement that the Authority will require you to sign in the event your Proposal is accepted.

I. PROPOSER REQUIREMENTS:

The Authority will consider only ent (in the order listed below) each of the followir

RFP #18415 Item #9

A. The operator of a profilomete e using the type of equipment and software as

B. Staff performing data evaluat ection II of the Attachment A, must have five

C. Firm must have performed ter he past five (5) years.

II. PROPOSAL FORMAT REQUI

To respond to this Request for P ıe "Proposer") shall submit a concise Proposal in

A. To be acceptable, this Proposal shall be of no more than **25** pages (single-sided using 12 point or greater font size), not including resumes or documents requested pertaining to laboratory equipment and certifications. Each resume shall be 2-page maximum, single-sided using 12 point or greater font size. The Proposal pages shall be numbered and bound, or in a 3-ring binder, with "Your Firm Name", and **RFP Number 18415** 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.

C. All proposals must be delivered in sealed envelopes and/or packages. Address Proposal to: The Port Authority of New York and New Jersey, One Madison Avenue, 7th Floor, New York, NY 10010, Attention: RFP Custodian. You are requested to submit one (1) reproducible original and three (3) copies, along with one (1) compact disc copy, of your Proposal for review. Notwithstanding retention of the compact disc, in case of conflict, the reproducible original of the Proposals and the written hard copy Contract, if awarded, shall take precedence over material on the compact disc.

D. In each submission to the Authority, including any return address label, information on the compact disc and information on the reproducible original and copies of the Proposal, the Proposer shall use its **FULL LEGAL NAME WITHOUT ABBREVIATIONS**. Failure to comply with this requirement may lead to delays in contract award and contract payments, which shall be the responsibility of the Proposer.

E. Submit your Proposal in sufficient time so that the Authority receives it **no later than 2:00 p.m. on Tuesday, September 1, 2009.** 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.

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, the Proposer shall submit a concise proposal in response to the following basic criteria:

A. In the front of your Proposal, a copy of Attachment B (Agreement on Terms of Discussions) signed by an officer of your company

B. Demonstrate your compliance with the prequalification requirements listed in "Proposer Requirements" as noted above.

C. The "multiplier" referred to in the first line of subparagraph 9.A of the accompanying standard agreement including a breakdown of said multiplier, indicating all of its components (e.g., vacation, holiday, sick pay, workers' compensation, office rent, insurance, profit).

D. Include the resumes of all full-time engineering and technical personnel of your firm who will be assigned to perform the requested services.

E. The name(s), title(s) and hourly rate(s), as well as resumes for engineering and technical personnel who will be assigned to perform any services requested. Indicate billing rates for partners or principals and actual hourly rates for all other billable employees. Compensation for premium pay (i.e. holidays, shift differentials, regular days, weekends and night work or union required payments must be included). Typical job titles may include but are not limited to the following:

1. Principal or Partner (Billing Rate)
2. Engineers (Actual Hourly Rate)
3. Technicians (Actual Hourly Rate)

F. Unit prices for the specific items of work and/or analyses as outlined in Attachment A, Exhibit I.

G. Specific relevant experience of your firm, including number of projects, size and complexity of projects, and type of structures inspected. For all projects referenced, include the name of the company, a contact person and current telephone number for verification purposes.

H. The Consultant's proposed management approach for performing the required services, being responsive to the client's needs (propose a response time to provide inspectors once requested), keeping the client apprised of the project status and ensuring the quality of the work product. In addition, include a proposed inspection and testing Quality Assurance Plan, as well as a proposed reporting approach/format.

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

J. 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.

K. The Proposer is expected to agree with the standard agreement and its terms and conditions. You should therefore not make any changes in this standard agreement, nor restate any of its provisions in your Proposal or supporting material. ***However, if the Proposer has any specific exceptions, such exceptions should be set forth in a separate letter included with its response to this RFP.*** The Authority is under no obligation to entertain or accept any such specific exceptions. Exceptions raised at a time subsequent to Proposal submission will not be accepted. The scope of the tasks to be performed by you are set forth in Attachment A to the Authority's standard agreement.

IV. SELECTION PROCESS:

The selection process for the performance of the subject services shall include consideration of the factors listed below in order of importance.

A. The quality and depth of the experience and qualifications of the staff, including subconsultants, who will be performing services hereunder.

B. The extent and quality of experience of the firm and the quality of similar services provided to others including the demonstrated ability to complete the services in accordance with the project schedule.

C. The Consultant's proposed management approach for the performance of services hereunder.

After consideration of the preceding technical factors, the cost of the Consultant's services will evaluated on a best buy/best value basis.

V. ADDITIONAL INFORMATION:

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

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

Your attention is directed to Paragraph 23 of the Authority's Standard Agreement in which the Chief Engineer has stated the goals for Minority Business Enterprise participation. A listing of certified MBE/WBE firms is available to you at your request.

After a review of all proposals received, the Authority will forward two copies of the Agreement and Attachment A thereto to the selected firm(s) who shall sign and return both copies. The return of one copy executed by the Authority will effectuate the Agreement.

Should you have any questions, please e-mail them to Ms. Mary Lou Rivera, Senior Contract Specialist at mlrivera@panynj.gov. All questions must be received at least five (5) working days prior to the proposal due date. Neither Ms. Rivera, nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate. For RFP updates and Addenda, if any, Proposers are encouraged to periodically access the Authority website at http://www.panynj.gov/DoingBusinessWith/contractors/html/current.php#prof_ad. You should therefore monitor the advertisement on said website, as appropriate, to ensure you are aware of changes, if any.

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.

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

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

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

Sincerely yours,

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

Attachments

ATTACHMENT A

PERFORMANCE OF EXPERT TECHNICAL SMOOTHNESS TESTING OF PORTLAND CEMENT CONCRETE AND BITUMINOUS CONCRETE INSPECTION SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010

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."

II. SCOPE OF WORK

The services of the Consultant shall include, but not be limited to, smoothness testing of both Portland cement and bituminous cement concrete pavements. These surveys are to be performed using a Class I, lightweight profilometer in conformance with ASTM E950, "Standard Test Method for Measuring the Longitudinal Profile of Traveled Surfaces with an Accelerometer Established Inertial Profiling Reference."

The Consultant shall be responsible for supplying all necessary labor and equipment to complete the tasks described herein. The work shall be performed at Authority facilities.

III. DESCRIPTION OF CONSULTANT'S TASKS

The Consultant's tasks shall include, but are not limited to, smoothness testing of both Portland cement and bituminous cement concrete pavements conforming with the following requirements:

A. Supply a Class I lightweight profilometer that meets all the requirements of ASTM E950.

B. The system must have, as a minimum, the computer software capable of producing reports for the following:

1. Variable Rolling Straightedge
2. California Profilograph Simulations
3. Profilograph Index
4. Must Grind Locations

These programs should have the ability to evaluate obtained data using variable parameters, such as blanking bands, straightedge tolerances, etc.

C. Submit comprehensive reports including date, location, a brief description of the survey, detailed printouts of each survey run, stations and offset of each run, average results for lots and sublots and non-conformance to projects specified limits, within one week of completion of work.

IV. CONDITIONS AND PRECAUTIONS

A. General

The Consultant shall immediately inform the Authority of any unsafe condition discovered at any time during the course of this work.

Vehicular and/or pedestrian traffic shall have priority over any and all of the Consultant's operations. [Q: Any and all what? This is unclear]

B. Work Areas

The Consultant shall limit work to the area necessary for the performance of such work, and shall not interfere with the operation of the facility without first obtaining specific approval from the Chief Engineer.

The Consultant shall not permit any objects or pieces of equipment to lie unattended on sidewalks, roadways or structures at any time.

C. Work Hours

Work hours shall be contingent upon project schedules and facility availability. This will necessitate some work at night and on weekends. When required, the Authority will provide traffic protection.

The Consultant shall coordinate work at the site(s) with the Project Manager.

In any case, no work shall be performed at the site on a legal holiday of either the State of New Jersey or the State of New York.

V. INFORMATION AND MATERIALS TO BE PROVIDED BY THE AUTHORITY

Contract drawings, project specifications, stationing and layout of work areas will be provided as needed by the Authority prior to each assignment.

****

EXHIBIT I

PERFORMANCE OF EXPERT TECHNICAL SMOOTHNESS TESTING OF PORTLAND CEMENT CONCRETE AND BITUMINOUS CONCRETE INSPECTION SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010

For the purpose of this Agreement, compensation for the onsite operator and associated report will be made at the hourly rate times multipliers and as further defined in Section 9 of our standard Agreement.

Compensation for the lightweight profilometer will be made at the daily rate of $_____ per day.

August 12, 2009

SUBJECT: REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT PROFESSIONAL SMOOTHNESS TESTING OF PORTLAND CEMENT CONCRETE AND BITUMINOUS CONCRETE INSPECTION SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010, 2011, 2012 AND 2013– ADDENDUM #1 (RFP #18415)

Dear Sir or Madam:

The following questions were received from RFP recipients. The questions and corresponding answers, as provided by the Authority, are provided for your information and use:

1. *If we elect not to respond, do you require a formal notice from us?*

Answer:

A formal notice that your firm will not respond to this RFP is appreciated but not required.

2. *How many consultants will be selected under this RFP?*

Answer:

The total number of firms selected under this RFP cannot be determined at this time. The selection process for the performance of the subject services shall include consideration of the factors listed in Section IV of the RFP letter. Firms awarded agreements will be posted on the Authority's website: (http://www.panynj.gov/DoingBusinessWith/contractors/html/postings.html#ptad_call).

3. *Can we be provided a list of consultants that received this RFP?*

Answer:

The Authority does not provide this information.

4. *What is the typical year funding (fees) available under this RFP?*

Answer:

Firms may be awarded up to $1.5M per agreement. However, the Authority does not guarantee the ordering of any services under this Agreement.

If you have any questions, please contact me at mlrivera@panynj.gov.

Sincerely yours,

Mary Lou K. Rivera
Principal Contract Specialist
Professional, Technical & Advisory Services Division
Procurement Department

P.A. AGREEMENT #*-10-*****
DATE

FIRM
ADDRESS
CITY, ST ZIP

Attention: CONTACT, TITLE

SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL SMOOTHNESS TESTING OF PORTLAND CEMENT CONCRETE AND BITUMINOUS CONCRETE INSPECTION SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010

Dear CONTACT:

1. The Port Authority of New York and New Jersey (hereinafter referred to as the "Authority") hereby offers to retain ***. (hereinafter referred to as "the Consultant" or "you") to provide expert professional services as more fully set forth in Attachment A, which is attached hereto and made a part hereof, on a "call-in" basis during 2010.

At the Authority's discretion, the Consultant may be required to enter into a new agreement for each of the following three years: 2011, 2012, 2013. Said agreement(s) shall be identical to this Agreement (hereinafter the "Agreement") unless otherwise mutually agreed upon by the parties. Subsequent agreements shall be sent to the Consultant as noted above at least 30 days prior to the end of the current term.

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

This Agreement shall be signed by you, and the Director of Procurement. As used herein "Chief Engineer" shall mean the Chief Engineer, or the Deputy Chief Engineer of the Authority, acting either personally or through his 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 Chief Engineer has designated ***, Chief of Materials Engineering, to act as his duly authorized representative. The Project Manager for this project is ***, tel. ***, or e-mail address ***@panynj.gov .

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

3. In response to a request for specific services hereunder and prior to the performance of any such services, you shall submit in writing to the Chief Engineer for approval an estimated cost and staffing analysis of such services to the Authority. The Chief Engineer shall have the right to

determine that specified services shall be performed on a Unit Price basis pursuant to Exhibit I. Approval of such cost and direction from the Chief Engineer 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 Chief Engineer and you shall submit to him 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.

4. 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 Chief Engineer personally, in which case the requirements of said notification shall apply.

5. The Consultant shall meet and consult with Authority staff as requested by the Chief Engineer in connection with the services to be performed herein. Any Contract Drawings and Technical Specifications and other items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Chief Engineer. The Chief Engineer may disapprove, if in his sole opinion said items are not in accordance with the requirements of this Agreement, sound engineering principles, or are impractical, uneconomical or unsuited in any way for the purpose for which the contemplated construction is intended. If any of the said items or any portion thereof are so disapproved, the Consultant shall forthwith revise them until they meet the approval of the Chief Engineer, 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 his responsibility under this Agreement to furnish in accordance with an agreed upon schedule, a complete, practical, economical design and Contract Drawings and Technical Specifications, and corrections and changes therein which are best suited for the contemplated construction, are done in accordance with sound engineering principles and are signed and sealed by a licensed Professional Engineer.

6. When services to be performed by the Consultant include the preparation of contract documents, or the performance of post award services, the Consultant shall submit its specific Quality Control/Assurance Program to the Engineer prior to the performance of services. Upon completion of specific services requested hereunder the Consultant shall submit a letter to the

Engineer certifying the Consultant's conformance with the aforementioned Quality Control/Assurance Program.

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

9. 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, D, and E below, subject to the limits on compensation and provisions set forth in paragraphs 3 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 *.** times the actual salaries paid by you to professional and technical personnel but not partners, 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 analysis 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 Chief Engineer 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 in a) accordance with the program of periodic merit and cost of living increases normally administered by it, b) are warranted by increased costs of providing services under this Agreement, c) are based upon increases in salaries and billing rates which are generally applicable to all of Consultant's clients and d) are in accordance with the Authority's salary rate increase policy for the current year for Authority employees possessing comparable skills and experience. If during any calendar year, 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 Chief Engineer 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, 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 Chief Engineer 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 Chief Engineer. 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. When the method of compensation hereunder, as approved in advance and in writing by the Engineer is on a unit price basis, said unit price shall include all labor, materials, profit and overhead or other expenses relative to the performance of the required services as indicated in Exhibit I, included herewith and made a part hereof.

D. An amount equal to the amounts actually paid to subconsultants hereunder who have been retained after the written approval by the Chief Engineer 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 his services, as part of any request for approval of the subconsultant.

E. The Consultant shall also be compensated at an amount equal to the out-of-pocket expense, approved in advance by the Chief Engineer, 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 mailing and delivery charges for submittal of drawings, specifications and reports; 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 Chief Engineer 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 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 his personal vehicle to provide services <u>within</u> 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 <u>outside</u> 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 advanced in writing by the Engineer. If the Consultant chooses to travel each day to an assignment, where it would be more economical to take a hotel room near the assignment, the maximum reimbursable travel expenses shall not exceed the daily cost for meals and lodging. Reimbursable travel as provided herein shall be limited to one round trip per week's service except when otherwise approved in advance and in writing by the Engineer. The total number of reimbursable travel hours (for travel outside the Port District) will be calculated by reducing the actual travel time by three hours. 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.

<u>General Services Administration (GSA) Rates:</u>

Domestic Rates:
<u>http://www.gsa.gov/Portal/gsa/ep/contentView.do?programId=9704&channelId=-</u>

15943&ooid=16365&contentId=17943&pageTypeId=8203&contentType=GSA_BASIC&programPage=%2Fep%2Fprogram%2FgsaBasic.jsp&P=MTT

You shall obtain the Chief Engineer'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.

F. 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 architects, engineers, designers, drafters or other professional and technical employees of the Consultant for time actually spent directly in the performance of technical services hereunder and recorded on daily time records which have been approved by the employee's immediate supervisor, excluding the time of any employee of the Consultant to the extent that the time of such employee of the Consultant is devoted to typing/word processing, stenographic, clerical or administrative functions. Such functions shall be deemed to be included in the multiplier referred to in subparagraph A above.

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

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

11. On or about the fifteenth 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 purchases order number provided by the Engineer. Upon receipt of the

foregoing, the Chief Engineer 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 Chief Engineer, advance to you by check the sum certified minus all prior payments to you for your account.

12. 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 Chief Engineer through the date of termination, minus all prior payments to you.

13. 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 Chief Engineer. Such approval may be withheld if for any reason the Chief Engineer believes that the publication of such information would be harmful to the public interest or is in any way undesirable.

14. 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 Chief Engineer, 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 Chief Engineer.

15. 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 other rights or obligations shall arise out of such additional services.

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

17. Mylars of the contract drawings, originals of technical specifications, estimates, reports, records, data, charts, documents, renderings, computations, computer tapes or disks, and other papers of any type whatsoever, whether in the form of writing, figures or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of the Authority, and the Authority shall have the right to use or permit the use of them and 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.

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

19. Notwithstanding anything to the contrary herein, the work product of the Consultant, its officers, agents, employees, or sub-consultants which is produced in accordance with the Agreement, whether it consists of computer programming or documentation thereof, including source code, and on any media whatsoever, shall be deemed to belong exclusively to the Authority, and the Authority shall have the exclusive right to obtain and to hold in its own name

any and all copyrights, patents, trade secrets or other proprietary rights and protection as may be produced as part of this work product, including the right to extensions or renewals, where appropriate. The work product shall not be destroyed or released to anyone outside of the Engineering Department without express written authorization of the Chief Engineer. The Authority shall have the exclusive right to use or permit the use of them and any ideas or methods represented by them for any purpose and at any time without other compensation than that specifically provided for herein. You agree to contract with your employees for the benefit of the Authority to insure that the Authority has such rights and to give to the Authority or any party designated by the Authority all assistance reasonably required to perfect the rights herein above stated. You shall indemnify and hold harmless the Authority against any claims of proprietary rights infringement arising out of such use of your work product.

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

21. You shall promptly and fully inform the Chief Engineer in writing of any 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.

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

23. 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 Chief Engineer 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 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.

24. 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.

Without the express written approval of the Chief Engineer, you shall keep confidential, and shall require your subconsultants and your employees to keep confidential (a) all information disclosed by the Authority or its consultants or contractors to you or (b) developed by you or your subconsultants in the performance of services hereunder. At the direction of the Authority, you will be required to have your employees, subconsultants and their employees execute, non-disclosure agreements. Disclosure of any such information shall constitute a material breach of the Agreement.

25. 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.

26. 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 contract, 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. 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 Engineer for specific services hereunder and include the additional premium cost thereof as an out-of-pocket expense:

a) Endorsement to eliminate any exclusions applying to the underground property, explosion and collapse hazards.

b) Endorsement to eliminate any exclusions on account of ownership, maintenance, operation, use, loading or unloading of watercraft.

c) Coverage for work within 50 feet of railroad.

B. Workers' Compensation Insurance:

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

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

a) United States Longshoremen's and Harbor Workers' Compensation Act Endorsement.

b) Coverage B Endorsement - Maritime (Masters or Members of the Crew of Vessels), in limits of not less than $1,000,000 per occurrence.

c) Amendments to Coverage B, Federal Employers' Liability Act in limits of not less than $1,000,000 per occurrence.

C. Professional Liability Insurance:

Not less than $2,000,000 each occurrence, covering acts, errors, mistakes, and omissions arising out of the work or services performed by Consultant, or any person employed by Consultant. All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on an occurrence basis or may be written on a claims made basis with a minimum of a three-year reporting/discovery period.

D. Compliance:

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

1) 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.

27. 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.

28. NON-COLLUSIVE PROPOSING, AND CODE OF ETHICS CERTIFICATION, CERTIFICATION OF NO SOLICIATION 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 form 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 "28G.", 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.

29. 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.

30. 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" 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.

31. 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 Chief Engineer, 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.

32. 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 Chief Engineer in writing of such situation giving the full details thereof. Unless the Consultant receives the specific written approval of the Chief Engineer, 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 Chief Engineer shall determine that the performance by the Consultant of a portion of its services under this Agreement is precluded by the provisions of this numbered paragraph, or a portion of the Consultant's said services is determined by the Chief Engineer to be no longer appropriate because of such preclusion, then the Chief Engineer 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.

33. DEFINITIONS

As used in sections 27 to 32 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.

34. 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.

35. 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.

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

Very truly yours,

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

Lillian D. Valenti
Director
Procurement Department

Date _____

ACCEPTED:

FIRM NAME

By: _____

Title: _____

Date: _____

INSTRUCTIONS

If the selected Consultant firm is not located in the States of New York or New Jersey, change the number of the last Paragraph of this Agreement from "36" to "37" and insert a new Paragraph "36" as follows:

36. 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.

September 23, 2009

SUBJECT: REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT PROFESSIONAL TRAFFIC PROTECTION SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010, 2011, 2012, AND 2013 (RFP# 19291)

Dear Sir or Madam:

The Port Authority of New York and New Jersey (hereinafter referred to as the "Authority"), hereby invites your proposal (hereinafter the "Proposal") for providing the subject services on a "call-in" basis during 2010 as part of the Materials Engineering 2010-2013 Consultant Program.

At the Authority's discretion, the Consultant may be required to enter into a new agreement for each of the following three years: 2011, 2012, and 2013. Said agreement(s) shall be identical to this Agreement unless otherwise mutually agreed upon by the parties. Subsequent agreements shall be sent to the Consultant as noted above at least thirty (30) days prior to the end of the current term.

Attached hereto is a copy of an Authority standard agreement including Attachment A. Carefully review these documents as they form the agreement that the Authority will require you to sign in the event your Proposal is accepted.

I. PROPOSAL FORMAT REQUIREMENTS:

To respond to this Request for Proposals (RFP), the proposer (hereinafter, the "Proposer") shall submit a concise Proposal in response to the following basic criteria:

A. To be acceptable, this Proposal shall be of no more than **25** pages (single-sided using 12 point or greater font size) not including resumes. Each resume shall be 2-page maximum, single-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 19291** 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.

C. All proposals must be delivered in sealed envelopes and/or packages. Address Proposal to: The Port Authority of New York and New Jersey, One Madison Avenue, 7th Floor, New York, NY 10010, Attention: RFP Custodian. You are requested to submit one (1) reproducible original and three (3) copies, along with one (1) compact disc copy, of your Proposal for review. Notwithstanding retention of the compact disc, in case of conflict, the reproducible original of the Proposals and the written hard copy Agreement, if awarded, 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. Submit your Proposal in sufficient time so that the Authority receives it **no later than 2:00 p.m. on October 14, 2009.** 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.

II. SUBMISSION REQUIREMENTS:

To respond to this RFP, provide the following information:

A. In the front of your Proposal, a copy of Attachment B, signed by an officer of your company.

B. The "multiplier" referred to in the first line of subparagraph 11.A of the accompanying standard agreement including a breakdown of said multiplier, indicating all of its components (e.g., vacation, holiday, sick pay, workers' compensation, office rent, insurance, profit).

C. Include the resumes of all full-time engineering and technical personnel of your firm who will be assigned to perform the requested services, including length of time providing such services.

D. The name(s), title(s) and hourly rate(s) as well as resumes for engineering and technical personnel who will be assigned to perform any services requested. Indicate billing rates for partners or principals and actual hourly rates for all other billable employees. Compensation for premium pay (i.e. holidays, shift differentials, regular days, weekends and night work or union required payments must be included). Typical job titles may include, but are not limited to, the following:

1. Principal or Partner (Billing Rate)
2. Engineers (Actual Hourly Rate)
3. Technicians (Actual Hourly Rate)

E. Technical qualifications of engineering and other technical personnel referred to in subparagraph C above.

F. Unit prices for the specific items of work and/or analyses as outlined in Attachment A, Exhibit I.

G. Specific relevant experience of your firm, including number of projects, size and complexity of projects, and type of structures inspected. For all projects referenced, include the name of the company, a contact person and current telephone number for verification purposes.

H. The Consultant's proposed management approach for performing the required services, being responsive to the client's needs, keeping the client apprised of the project status and ensuring the quality of the work product. Provide in-house Quality Control Plan,

including, but not limited to, in-house staff training programs, as well as how the Operating and Maintenance Standards provided in the Attachment A will be enforced.

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

J. 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.

K. The Proposer is expected to agree with the standard agreement and its terms and conditions. You should therefore not make any changes in this standard Agreement, nor restate any of its provisions in your Proposal or supporting material. ***However, if the Proposer has any specific exceptions, such exceptions should be set forth in a separate letter included with its response to this RFP.*** The Authority is under no obligation to entertain or accept any such specific exceptions. Exceptions raised at a time subsequent to Proposal submission will not be accepted. The scope of the tasks to be performed by you are set forth in Attachment A to the Authority's standard Agreement.

III. 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. Such negotiations shall be conducted between the Authority's contact-person as identified herein, or the undersigned, and the individual contact-person identified by your firm.

Technical qualifications shall include consideration of the following factors listed in order of importance:

A. The quality and depth of the experience and qualifications of the staff, including subconsultants, who will be performing services hereunder.

B. The extent and quality of experience of the firm and the quality of similar services provided to others including the demonstrated ability to complete the services in accordance with the project schedule.

C. The Consultant's proposed management approach for the performance of services hereunder.

IV. ADDITIONAL INFORMATION:

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

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

Your attention is directed to Paragraph 25 of the Authority's standard agreement in which the Chief Engineer has stated the goals for Minority Business Enterprise participation. A listing of certified MBE/WBE firms is available to you at your request.

After a review of all proposals received, the Authority will forward two copies of the Agreement and Attachment A thereto to the selected firm(s) who shall sign and return both copies. The return of one copy executed by the Authority will effectuate the Agreement.

Should you have any questions, please e-mail them to Ms. Isabel Amado, Principal Contract Specialist at iamado@panynj.gov. All such emails shall have **"RFP# 19291"** in the subject line. The Authority must receive all questions at least five (5) working days prior to the proposal due date. Neither Ms. Amado, nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate. For RFP updates and addenda, Proposers are encouraged to periodically access the Authority website at http://www.panynj.gov/DoingBusinessWith/contractors/html/current.php#prof_ad. You should therefore monitor the advertisement on said website, as appropriate, to ensure you are aware of changes, if any.

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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.

Proposal preparation costs are not reimbursable by the Authority, if any. 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 unqualified right, in its sole and absolute discretion, to reject all Proposals, to waive defects in Proposals, to undertake discussions and modifications with one or more Consultants and to proceed with that Proposal or modified Proposal, if any, which in its judgment will, under all the circumstances, best serve the public interest.

Sincerely yours,

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

Attachments

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL TRAFFIC PROTECTION SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010

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."

II. SCOPE OF WORK

The services of the Consultant shall consist of, but not be limited to, providing equipment, materials and labor required to assure worksite traffic protection at various Authority facilities, construction sites, or other ancillary roadway tributaries as requested.

The equipment shall be utilized in accordance with the attached standards. The personnel assigned should be experienced with the equipment and its installation and maintenance. Prior to the performance of any field services, assigned personnel must be totally familiar with the attached referenced standards. For the services to be provided, all closures will be of a short duration, typically one day or night. On occasion, extended closures may be required.

III. DESCRIPTION OF CONSULTANT'S TASKS

The Consultant's tasks shall include, but not be limited to, the following:

A. Supply experienced manpower and equipment to provide roadway closures and protection in accordance with the Engineering Department's traffic standards, which are attached.

B. Set up and maintain all equipment for the duration of the work being protected.

C. Remove all equipment in a safe manner, leaving the work zone in its preexisting condition.

IV. CONDITIONS AND PRECAUTIONS

A. General

The Consultant shall immediately inform the Authority of any unsafe condition discovered at any time during the course of this work.

Vehicular and/or pedestrian traffic shall have priority over any and all of the Consultant's operations.

B. Work Areas

The Consultant shall limit his work to the area necessary for the performance of such work, and shall not interfere with the operation of the facility without first obtaining specific approval from the Chief Engineer.

The Consultant shall not permit any objects or pieces of equipment to lie unattended on sidewalks, roadways or structures at any time.

C. Work Hours

The Consultant shall coordinate his work at the site(s) with the Project Manager.

In any case, no work shall be performed at the site on a legal holiday of either the State of New York or the State of New Jersey.

V. INFORMATION AND MATERIALS TO BE 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 for other purposes, and they 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 him with such information as is in the possession of the Authority, whether or not such information may be accurate, complete or pertinent, or of any value to the Consultant.

All documents, as well as Authority standards, Authority mylar tracings and examples of Authority specifications will be made available to the Consultant from the Project Manager named on page 1 of the Agreement.

Said documents are as follows:

A. Engineering drawings and applicable specifications.

B. The following Authority standards are included herewith and made a part hereof:

1. Operations & Maintenance Standard 20
2. Operations & Maintenance Standard 37

****

EXHIBIT I

PERFORMANCE OF EXPERT PROFESSIONAL TRAFFIC PROTECTION SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010

Compensation for equipment will be made on a unit price basis, which you are required to provide below:

EQUIPMENT/VEHICLE RATES		DAILY	WEEKLY
2' x 4' Signs	Per Sign	$_____	$_____
2' x 4' Illuminated Signs	Per Sign	$_____	$_____
4' x 4' Signs	Per Sign	$_____	$_____
4' x 4' Illuminated Signs	Per Sign	$_____	$_____
Illuminated Arrow Boards	Per Sign	$_____	$_____
Back-up Truck	Per Truck	$_____	$_____
Back-up Truck w/Attenuator	Per Set-up	$_____	$_____
100-28" Orange Traffic Cones at 25' Intervals	Lump Sump	$_____	$_____
Other: Sign Stand	Per Sign Stand	$_____	$_____

Weekly rates will apply if equipment is rented for five days or more in a week.

For purposes of this Agreement, compensation for the onsite staff will be made at the hourly rates times multipliers and as further defined in Section 11 of the standard agreement.

P.A. AGREEMENT #*-10-*****
DATE

FIRM
ADDRESS
CITY, ST ZIP

Attention: CONTACT, TITLE

SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL TRAFFIC PROTECTION SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2010

Dear CONTACT:

1. The Port Authority of New York and New Jersey (hereinafter referred to as the "Authority") hereby offers to retain ***. (hereinafter referred to as "the Consultant" or "you") to provide expert professional services as more fully set forth in Attachment A, which is attached hereto and made a part hereof, on a "call-in" basis during 2010.

At the Authority's discretion, the Consultant may be required to enter into a new agreement for each of the following three years: 2011, 2012, 2013. Said agreement(s) shall be identical to this Agreement unless otherwise mutually agreed upon by the parties. Subsequent agreements shall be sent to the Consultant as noted above at least thirty (30) days prior to the end of the current term.

2. 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.

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

For the purpose of administering this Agreement, the Chief Engineer has designated ***, Chief of Materials Engineering, to act as his duly authorized representative. The Project Manager for this project is ***, tel. ***, or e-mail address ***@panynj.gov.

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

5. 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 Chief Engineer for approval an estimated cost and staffing analysis of such services to the Authority. The Chief Engineer shall have the right to determine that specified services shall be performed on a Unit Price basis pursuant to Exhibit I.

Approval of such cost and direction from the Chief Engineer 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 Chief Engineer and you shall submit to him 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.

6. 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 Chief Engineer personally, in which case the requirements of said notification shall apply.

7. The Consultant shall meet and consult with Authority staff as requested by the Chief Engineer in connection with the services to be performed herein. Any Contract Drawings and Technical Specifications and other items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Chief Engineer. The Chief Engineer may disapprove, if in his sole opinion said items are not in accordance with the requirements of this Agreement, sound engineering principles, or are impractical, uneconomical or unsuited in any way for the purpose for which the contemplated construction is intended. If any of the said items or any portion thereof are so disapproved, the Consultant shall forthwith revise them until they meet the approval of the Chief Engineer, 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 his responsibility under this Agreement to furnish in accordance with an agreed upon schedule, a complete, practical, economical design and Contract Drawings and Technical Specifications, and corrections and changes therein which are best suited for the contemplated construction, are done in accordance with sound engineering principles and are signed and sealed by a licensed Professional Engineer.

8. You shall not continue to render services under this Agreement after the point at which the total amount to be paid to you hereunder including reimbursable expenses reaches the combined total of each of the approved estimated costs unless you are specifically authorized in writing to so continue by the Chief Engineer. 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.

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

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

11. 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, D, and E below, subject to the limits on compensation and provisions set forth in paragraphs 5 and 8 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 partners, 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 analysis 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 Chief Engineer 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 in a) accordance with the program of periodic merit and cost of living increases normally administered by it, b) are warranted by increased costs of providing services under this Agreement, c) are based upon increases in salaries and billing rates which are generally applicable to all of Consultant's clients and d) are in accordance with the Authority's salary rate increase policy for the current year for Authority employees possessing comparable skills and experience. If during any calendar year, 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 Chief Engineer 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, 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 Chief Engineer 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 Chief Engineer. 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. When the method of compensation hereunder, as approved in advance and in writing by the Chief Engineer is on a unit price basis, said unit price shall include all labor, materials, profit and overhead or other expenses relative to the performance of the required services as indicated in Exhibit I, included herewith and made a part hereof.

D. An amount equal to the amounts actually paid to subconsultants hereunder who have been retained after the written approval by the Chief Engineer 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 his services, as part of any request for approval of the subconsultant.

E. The Consultant shall also be compensated at an amount equal to the out-of-pocket expense, approved in advance by the Chief Engineer, 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 mailing and delivery charges for submittal of drawings, specifications and reports; 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 Chief Engineer 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 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 his personal vehicle to provide services <u>within</u> 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 <u>outside</u> 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 advanced in writing by the Chief Engineer. If the Consultant chooses to travel each day to an assignment, where it would be more economical to take a hotel room near the assignment, the maximum reimbursable travel expenses shall not exceed the daily cost for meals and lodging. Reimbursable travel as provided herein shall be limited to one round trip per week's service except when otherwise approved in advance and in writing by the Chief Engineer. The total number of reimbursable travel hours (for travel outside the Port District) will be calculated by reducing the actual travel time by three hours. 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.

<u>General Services Administration (GSA) Rates:</u>

Domestic Rates:
<u>http://www.gsa.gov/Portal/gsa/ep/contentView.do?programId=9704&channelId=-</u>

15943&ooid=16365&contentId=17943&pageTypeId=8203&contentType=GSA_BASIC&programPage=%2Fep%2Fprogram%2FgsaBasic.jsp&P=MTT

You shall obtain the Chief Engineer'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.

F. 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 architects, engineers, designers, drafters or other professional and technical employees of the Consultant for time actually spent directly in the performance of technical services hereunder and recorded on daily time records which have been approved by the employee's immediate supervisor, excluding the time of any employee of the Consultant to the extent that the time of such employee of the Consultant is devoted to typing/word processing, stenographic, clerical or administrative functions. Such functions shall be deemed to be included in the multiplier referred to in subparagraph A above.

12. 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.

13. 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 purchases order number provided by the Chief Engineer. Upon receipt of the

foregoing, the Chief Engineer 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 Chief Engineer, advance to you by check the sum certified minus all prior payments to you for your account.

14. 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 Chief Engineer through the date of termination, minus all prior payments to you.

15. 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 Chief Engineer. Such approval may be withheld if for any reason the Chief Engineer believes that the publication of such information would be harmful to the public interest or is in any way undesirable.

16. 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 Chief Engineer, 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 Chief Engineer.

17. 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 other rights or obligations shall arise out of such additional services.

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

19. Mylars of the contract drawings, originals of technical specifications, estimates, reports, records, data, charts, documents, renderings, computations, computer tapes or disks, and other papers of any type whatsoever, whether in the form of writing, figures or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of the Authority, and the Authority shall have the right to use or permit the use of them and 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.

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

21. Notwithstanding anything to the contrary herein, the work product of the Consultant, its officers, agents, employees, or sub-consultants which is produced in accordance with the Agreement, whether it consists of computer programming or documentation thereof, including source code, and on any media whatsoever, shall be deemed to belong exclusively to the Authority, and the Authority shall have the exclusive right to obtain and to hold in its own name

any and all copyrights, patents, trade secrets or other proprietary rights and protection as may be produced as part of this work product, including the right to extensions or renewals, where appropriate. The work product shall not be destroyed or released to anyone outside of the Engineering Department without express written authorization of the Chief Engineer. The Authority shall have the exclusive right to use or permit the use of them and any ideas or methods represented by them for any purpose and at any time without other compensation than that specifically provided for herein. You agree to contract with your employees for the benefit of the Authority to insure that the Authority has such rights and to give to the Authority or any party designated by the Authority all assistance reasonably required to perfect the rights herein above stated. You shall indemnify and hold harmless the Authority against any claims of proprietary rights infringement arising out of such use of your work product.

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

23. You shall promptly and fully inform the Chief Engineer in writing of any 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.

24. 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 Chief Engineer. 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.

25. 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 Chief Engineer 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 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.

26. 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.

Without the express written approval of the Chief Engineer, you shall keep confidential, and shall require your subconsultants and your employees to keep confidential (a) all information disclosed by the Authority or its consultants or contractors to you or (b) developed by you or your subconsultants in the performance of services hereunder. At the direction of the Authority, you will be required to have your employees, subconsultants and their employees execute, non-disclosure agreements. Disclosure of any such information shall constitute a material breach of the Agreement.

27. 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.

28. 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 contract, 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 escort as approved in advance, and in writing by the Project Manager. If at any time, the Consultant is directed to perform services airside in the absence of an approved escort, the Commercial General Liability Insurance and Automobile Liability Insurance provided by the Consultant must contain limits of not less than $25,000,000 combined single limit per occurrence, as provided in item 2) (a) below. In addition, the liability policies (other than Professional Liability) shall include the 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 Chief Engineer for specific services hereunder and include the additional premium cost thereof as an out-of-pocket expense:

a) If the services of the Consultant 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 the underground property, explosion and collapse hazards.

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 Chief Engineer for specific services hereunder and include the additional premium cost thereof as an out-of-pocket expense:

a) United States Longshoremen's and Harbor Workers' Compensation Act Endorsement.

b) Coverage B Endorsement - Maritime (Masters or Members of the Crew of Vessels), in limits of not less than $1,000,000 per occurrence.

c) Amendments to Coverage B, Federal Employers' Liability Act in limits of not less than $1,000,000 per occurrence.

C. Professional Liability Insurance:

Not less than $2,000,000 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.

29. 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.

30. NON-COLLUSIVE PROPOSING, AND CODE OF ETHICS CERTIFICATION, CERTIFICATION OF NO SOLICIATION 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 form 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 "30G.", 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.

31. 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.

32. 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" 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.

33. 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 Chief Engineer, 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.

34. 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 Chief Engineer in writing of such situation giving the full details thereof. Unless the Consultant receives the specific written approval of the Chief Engineer, 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 Chief Engineer shall determine that the performance by the Consultant of a portion of its services under this Agreement is precluded by the provisions of this numbered paragraph, or a portion of the Consultant's said services is determined by the Chief Engineer to be no longer appropriate because of such preclusion, then the Chief Engineer 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.

35. DEFINITIONS

As used in sections 29 to 34 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.

36. 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.

37. 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.

38. 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 NAME

By: _____

Title: _____

Date: _____

INSTRUCTIONS

If the selected Consultant firm is not located in the States of New York or New Jersey, change the number of the last Paragraph of this Agreement from "38" to "39" and insert a new Paragraph "38" as follows:

38. 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.