

September 15, 2008

SUBJECT: REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT PROFESSIONAL PLANNING SERVICES AS REQUESTED ON A “CALL-IN” BASIS DURING 2008, 2009, 2010 AND 2011

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 planning services in any of the following areas: (1) Transportation Planning and Policy Analysis, (2) Specialized Transportation Planning Services, (3) Intermodal Freight Planning, (4) Project Appraisal and Economic Analysis, and (5) Strategic Research and Planning, as requested on a “call-in” basis during 2008 through 2011, 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 foregoing categories.

The initial agreement resulting from this solicitation shall be for the first calendar year (2008). At the Authority’s discretion, the selected consultant(s) may be required to enter into a new agreement for each of the following four years (2009, 2010, 2011). 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 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 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. The Proposal pages shall be numbered and bound, or in a 3-ring binder, with “Your Firm Name,” and **RFP Number 16522** 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) Transportation Planning and Policy Analysis, (2) Transportation Planning Analysis Methods, (3) Intermodal Freight Planning, (4) Project Appraisal and Economic Analysis, and (5) Strategic Research and Planning.
- 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 eleven (11) 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 October 23, 2008**. 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, Professional and Technical staff who will be assigned to perform the requested services within each of the categories you are proposing.
- D. The "multiplier" referred to in the first line of subparagraph 8.A of the accompanying Standard 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).
- E. 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.
- F. The name(s), title(s) and hourly rate(s) for professional 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. Professional Personnel (Actual Hourly Rate)
 - 3. Technical Personnel (Actual Hourly Rate)
- G. Specific relevant experience of your firm. Please limit this to a 10-page maximum for each of the five 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.

For verification purposes, submit a copy of Exhibit I, included herewith, to each referenced firm for submission by them to the Authority, as noted therein. You are expressly prohibited from requesting a completed copy of said Attachment from each such referenced firm and should ensure that they complete said Exhibit so that it is received by the Authority on the due date of proposals, as stipulated herein.

- H. 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 apprised of the project status; and the efforts made by the Consultant to meet the Minority Business Enterprise (MBE) and Woman Business Enterprise (WBE) goals for this project.
- 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. 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 Planning Department's "call-in" list 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 for the performance of services hereunder.

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

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 20 of the Authority's Standard Agreement, in which the Director 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, which 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 Mr. David Gutiérrez, Procurement Contracts Manager, at david.gutierrez@panynj.gov. All questions must be received at least three (3) working days prior to the proposal due date. Neither Mr. Gutiérrez, nor any other employee of the Authority is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate. 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

P.A. AGREEMENT # *-08-*****
DATE

FIRM
STREET
CITY, STATE ZIP

Attention: ***

**SUBJECT: REQUEST FOR PROPOSALS FOR PERFORMANCE OF EXPERT
PROFESSIONAL PLANNING SERVICES AS REQUESTED ON A
“CALL-IN” BASIS DURING 2008, 2009, 2010 AND 2011**

Dear ***:

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 2008, 2009, 2010 and 2011.

At the Authority's discretion, the Consultant may be required to enter into a new agreement for each of the following four years (2008, 2009, 2010, 2011). 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.

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 Director of Procurement. As used herein "Director" shall mean the Director, or the Deputy Director 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 Director has designated ***** Manager, to act as his duly authorized representative. The Project Manager for this project is ***, tel. (212) ***-****, or e-mail address ****@panynj.gov.

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

4. In response to a request for specific services hereunder, and prior to the performance of any such services, you shall submit in writing to the Director for approval an estimated cost and staffing analysis of such services to the Authority. Approval of such cost and direction from the Director in writing to proceed shall effectuate the performance of services under this Agreement. After the point at which your expenditures for such services reach such approved estimated cost,

you shall not continue to render any such services, unless you are specifically authorized in writing to so continue by the Director, and you shall submit to 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 Director 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 Director 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 Director. The Director may disapprove, if in his sole opinion said items are not in accordance with the requirements of this Agreement, sound planning 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 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 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 Planning 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 Project Manager prior to the performance of services. Upon completion of specific services requested hereunder the Consultant shall submit a letter to the Project Manager 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 Director. If no such authorization is issued, this Agreement shall be

terminated without further obligation by either of the parties as to services not yet performed, but you shall be compensated as hereinafter provided for services already completed.

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 Project Manager prior to the performance of specific services and shall be submitted to the Authority on compact discs, 3.5" floppy diskettes, or as otherwise required.

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, D, E and F 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, 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 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 analysis shall clearly indicate any of your employees, proposed by you to perform the requested services who 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: a) in accordance with the program of periodic merit and cost-of-living increases normally administered by it; b) warranted by increased costs of providing services under this Agreement; c) based upon increases in salaries and billing rates which are generally applicable to all of Consultant's clients; and d) in accordance with the Authority's salary rate increase policy for the current year for Authority employees possessing comparable skills and experience. If during any calendar year, Authority

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

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

B. An amount equal to the premium payments for overtime work or night work or for performing hazardous duty, actually paid to professional and technical employees, but not partners or principals for time actually spent by them in the performance of services hereunder when such overtime or other premium payments have been demonstrated to be in accordance with the Consultant's normal business practice and have been authorized in advance by the Director in writing. The Project Manager for the Authority shall have the right to authorize and approve premium payments up to a total amount of \$1,000 per occasion. Payments above said total amount shall be subject to the prior written authorization of the Director. Such premium payments to supervisory employees who do not receive such payments in the Consultant's normal business practice shall not be given under this Agreement.

C. An amount equal to the amounts actually paid to subconsultants hereunder who have been retained after the written approval by the Director of the subconsultant and the compensation to be paid the subconsultant. The Consultant shall submit a copy of the terms and conditions of the subconsultant's compensation (including multiplier, if applicable), as well as an estimate of the number of hours required by the subconsultant to perform his 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 expenses, 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: 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 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 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 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 Project Manager. The cost for all meals and lodging on approved overnight trips is limited to the amounts established by the United States General Services Administration for that locality.

General Services Administration (GSA) Rates:

Domestic Rates:

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

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

E. As used herein:

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

"Salaries paid to employees," or words of similar import, shall mean salaries and amounts actually paid (excluding payments or factors for holidays, vacations, sick time, bonuses, profit participations and other similar payments) to 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.

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 Project Manager. Upon receipt of the foregoing, the Director will estimate and certify to the Authority the approximate amount of compensation earned by you up to that time. As an aid to you the Authority shall, within fifteen days after receipt of such certification by the Director, advance to you by check the sum certified minus all prior payments to you for your account.

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

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

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

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

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

16. 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.

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 Director 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.

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

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

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;
- 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 of 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 all legal expenses. If so directed, the Consultant shall defend against any claim described in subparagraphs B, C and D above, in which event he shall not without obtaining express advance permission from the General Counsel of the Authority raise any defense involving in any way jurisdiction of the tribunal, immunity of the Authority, governmental nature of the Authority or the provisions of any statutes respecting suits against the Authority, such defense to be at the Consultant's cost.

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

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

the risks which he would assume or the claims for which he would be responsible in the absence of such enumerations.

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

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

23. LIABILITY INSURANCE AND WORKERS' COMPENSATION INSURANCE

A. Commercial Liability Insurance:

- 1) The Consultant shall take out and maintain at his own expense Commercial General Liability Insurance, including but not limited to, Premises-Operations, Completed Operations and Independent Contractor coverages, in limits of not less than \$2,000,000 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 \$2,000,000 combined single limit per accident for bodily injury and property damage (a minimum of \$25 million per accident if any Work is on airside). In addition, the liability policies (other than Professional Liability) shall include the Authority and Port Authority Trans-Hudson Corp (PATH) as additional insureds 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 Project Manager, 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 Project Manager, 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 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 and/or PATH 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.

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 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 Authority's 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 Port Authority determination with respect to (i) the solicitation, evaluation or award of this Contract; or (ii) the preparation of specifications or request for submissions in connection with this Contract.

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 Contract, 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 Contract. 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.

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 submit a proposal on or be awarded public contracts 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 submitted a 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.

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 "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 Authority's Code of Ethics and Financial Disclosure, dated April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Authority). Without the express written approval of the Director, you shall keep confidential, and shall require your employees, your subconsultants, and your subconsultant's employees to keep confidential all information (a) 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 a 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, a 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.

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:

Company: _____

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 "34" as follows:

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

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL PLANNING SERVICES AS REQUESTED ON A “CALL-IN” BASIS DURING 2008, 2009, 2010, 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.”

II. SCOPE OF WORK

The services of the Consultant shall generally consist of performing transportation, policy analysis, regional economics, strategic planning and related services. Specific services may include, but shall not be limited to:

- A. Transportation Planning and Policy Analysis
- B. Specialized Transportation Planning Services
- C. Intermodal Freight Planning
- D. Project Appraisal and Economic Analysis
- E. Strategic Research and Planning

The Consultant’s services shall include: preparation of draft written reports documenting findings and recommendations; incorporation of Authority comments, as appropriate, and submitting said reports as final; attending meetings with Authority staff, and others as required; and preparing and conducting presentations to Authority staff and others as required.

III. DESCRIPTION OF CONSULTANT’S TASKS

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

TASK A. TRANSPORTATION PLANNING AND POLICY ANALYSIS

1. Assessment of congestion mitigation and street management initiatives

2. Transportation and infrastructure policy studies
3. Trans-Hudson and Staten Island-New Jersey commuting alternatives
4. Assessment of innovative financing provisions in federal legislation
5. Airport ground access studies
6. Land-use and traffic studies
7. Technical support for transportation grant applications

TASK B. SPECIALIZED TRANSPORTATION PLANNING SERVICES

1. Data collection and travel survey
2. Travel demand modeling
3. Simulation analysis
4. Transportation system performance monitoring and diagnosis
5. Land-use forecasting and analysis
6. Application of GIS for spatial and network data analysis

TASK C. INTERMODAL FREIGHT PLANNING

1. Multi-modal freight operations and infrastructure assessment
2. Urban and regional freight logistics needs and policy analyses
3. Freight carrier and freight logistics industry analyses
4. Freight data collection, development, and analysis
5. Freight forecasting
6. Land-use analysis
7. Best practices, sustainable practices, and new technology assessment
8. Economic, financial, and legal analyses of freight logistics issues

TASK D. PROJECT APPRAISAL AND ECONOMIC ANALYSIS

1. Cost-benefit, including cost-effectiveness, analysis of projects, policies, or programs for all transportation modes
2. Environmental assessment/cost analysis of air, water, land, and noise pollution
3. Project risk analysis
4. Economic development (wider economic benefits) analysis associated with transportation projects, policies, or programs
5. Economic impact analysis of transportation projects, policies, or programs
6. Analysis of financing and pricing mechanisms for transportation infrastructure
7. Economic forecasting of regional, national, and international macroeconomic variables
8. County and regional demographic forecasting

9. County and regional employment and labor force analysis
10. Regional and sub-regional input-output modeling

TASK E. STRATEGIC RESEARCH AND PLANNING

1. Long-term planning scenarios
2. Best practices studies
3. Performance measurement and benchmarking studies
4. Future studies/emerging issues (e.g., new transportation technologies, sustainable energy, urban development trends)
5. Industry market research

III. 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 at any site at which the Consultant is performing work 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 or structures at any time.

C. Work Hours:

The Consultant shall coordinate all work at the site(s) with the Project Manager, unless otherwise directed by the Director.

* * *

ATTACHMENT B

PERFORMANCE OF EXPERT PROFESSIONAL PLANNING SERVICES AS REQUESTED ON A "CALL-IN" BASIS DURING 2008, 2009, 2010 AND 2011

AGREEMENT ON TERMS OF DISCUSSION

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

Notwithstanding the above, and without assuming any legal obligation, the Port Authority will employ reasonable efforts, subject to the provisions of the Authority's Freedom of Information Resolution adopted by its Committee on Operations on August 13, 1992, not to disclose to any competitor of the undersigned, information submitted which deals with pricing or other financial matters, which may be disclosed by the undersigned to the Port Authority as part of or in connection with the submission of a Proposal.

NAME OF COMPANY

SIGNATURE OF OFFICER

PRINT NAME OF OFFICER

TITLE

DATE