

February 9, 2009

**SUBJECT: REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT PROFESSIONAL SERVICES – DEVELOPMENT OF A COMPREHENSIVE LONG-TERM REGIONAL GOODS MOVEMENT PLAN DURING 2009 AND 2010 (RFP #17532)**

Dear Sir or Madam:

The Port Authority of New York and New Jersey (“the Port Authority”) is seeking Proposals in response to this Request for Proposals (RFP) for a Consultant to develop a comprehensive Long-term Regional Goods Movement Plan. The scope of the tasks to be performed by the Consultant are set forth in Attachment A to the Port Authority’s Standard Agreement (the “Agreement”), included herewith.

The purpose of the study is to assist the Port Authority to develop a framework and action plan that will devise, identify, and prioritize freight strategies and projects within a 30-year planning horizon. The Port Authority is seeking a consultant or consultant team with goods movement experience across a broad spectrum of transportation types.

You should carefully review this Agreement as it is the form of agreement that the Port Authority intends that you sign in the event of acceptance of your Proposal and forms the basis for the submission of Proposals.

The Proposer is expected to agree with the form of agreement and its terms and conditions. You 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 Port 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.

A pre-Proposal conference is scheduled for Friday, February 27, 2009 at 10:00 am to discuss the project and answer questions. Attendance is strongly recommended, but not required. Further information can be found under Section IV: Pre-Proposal Conference.

**I. PROPOSAL FORMAT REQUIREMENTS**

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

- A. To be acceptable, the Proposal shall be no more than thirty-five (35) pages (single-sided using 12 point or greater font size) not including resumes. Each resume shall be a 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 17532** clearly indicated on the cover.
- B. Each section of the Proposal shall be separated with a tab divider that is labeled in accordance with the letter of the requirements specified below in Section II.
- 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, 7<sup>th</sup> Floor, New York, NY 10010, Attention: RFP Custodian. You are requested to submit one (1) reproducible original and twelve (12) copies, along with one (1) compact disc copy, of

your Proposal for review. In case of conflict, the reproducible original of the Proposal shall take precedence over material on the compact disc.

- D. In your submission to the Port 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 Proposals should be forwarded in sufficient time so that the Port Authority receives them **no later than 2:00 p.m. on March 23, 2009**. The cover of your submittal must include the RFP Number (as stated above) and the RFP title. The Port 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.

## **II. SUBMISSION REQUIREMENTS**

To respond to this RFP, provide the following information:

- A. In the front of your Proposal, a copy of Attachment B (Agreement on Terms of Discussion), signed by an officer of your company.
- B. Complete a copy of Attachment C (Company Profile).
- C. The "multiplier" referred to in the first line of subparagraph 7.A of the accompanying 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. Provide the name(s), title(s) and resume(s) of the personnel who will be assigned to perform the required services. Identify subcontractors, if any, and indicate their experience and qualifications.
- E. Identify the experience of your firm in providing services similar to those contemplated herein during the last three (3) years. For all projects referenced, include the name of the company, the date the services were provided, the nature of the services performed, a contact person and current telephone number and e-mail address for verification purposes. Indicate whether said projects were completed on schedule and within budget.
- F. Provide your Technical Approach to performance of the required services, as stipulated in Attachment A. The Technical Approach shall include your Project Management Plan (including a detailed project budget, staffing analysis, and schedule). The project schedule will include all activities (by work tasks), start dates, activity durations, product submittal dates, and relationships among work tasks (including critical path items).

Additional factors addressed in your technical approach shall include, but are not limited to, your proposed methodology and strategy for performing the services in Attachment A as well as any specific software or other technology you may employ in the performance of these services.

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

Your attention is directed to Paragraph 19 of the Agreement in which the Port Authority has stated the M/WBE goals for participation in this project. Submit details on how you intend to meet these goals. A listing of certified M/WBE firms will be provided upon request.

- H. Complete a copy of Attachment D, an estimated cost and staffing analysis for the performance of each task listed in Attachment A, including out-of-pocket expenses. Provide the name(s), title(s) and actual hourly rate(s) for technical personnel who will be assigned to perform the requested services. Indicate billing rates for partners or principals. Please note that out-of-pocket expenses shall not include daily commutation or housing costs or any relocation costs that may be incurred by your staff in the performance of services under this Agreement.

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

- I. A complete list of your firm's affiliates.
- J. If the Proposer or any employee or agent 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 Port 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 Port Authority's determination regarding any question(s) of conflict of interest shall be final.
- K. The Proposer is expected to comply with the Agreement and its terms and conditions. You 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 Port 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 Agreement.

### **III. 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. Technical approach for the performance of services hereunder.
- B. Quality and depth of the experience and qualifications of the staff performing services hereunder.
- C. Quality of experience of the firm and the quality of similar services provided to others.
- D. Management approach for the performance of services hereunder.

The cost of the Consultant's services will be evaluated on a "best buy" basis.

### **IV. PRE-PROPOSAL CONFERENCE**

A pre-Proposal conference is scheduled for Friday, February 27, 2009 at 10:00 am to discuss the project and answer questions. Attendance is strongly recommended, but not required. Knowledge gained during the conference may be useful to Proposers in preparing their submissions. Proposers interested in attending shall so notify Kim Payne via fax at (212) 435-3992, or email at [kpayne@panynj.gov](mailto:kpayne@panynj.gov). Attendees **must** notify Ms. Payne by 4:00 PM on February 23, 2009. Notification must include: firm name, number of attendees, and name of attendees. Proper identification (e.g., photo identification) will be required. Conference location will be provided upon attendance notification. Teleconferencing will also be available for Proposers unable to attend in person. An access code will be provided upon attendance notification.

Proposers are encouraged to submit questions via email to Ms. Payne by February 24, 2009 that shall be addressed during the conference (at the Port Authority's discretion).

### **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 one hour and include the material contained in your Proposal. The presentation would 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 member proposed to work on this project. **Provide the name and e-mail address of the person who should be contacted for presentation scheduling**, if applicable, 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, Suspension, Debarment, Disqualification and Disclosures 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 Port 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 Port Authority will forward two copies of the Agreement to the selected firm, who shall then sign and return both copies. The return of one copy executed by the Port Authority will effectuate the Agreement.

Should you have any questions, please contact Kim Payne, Senior Contract Specialist, by email at [kpayne@panynj.gov](mailto:kpayne@panynj.gov). All questions must be received by the Port Authority no later than 4:00 p.m. at least three (3) days prior to the Proposal due date. Neither Ms. Payne nor any other employee of the Port Authority is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the undersigned and such writing shall form a part of this RFP, or the accompanying documents, as appropriate.

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

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

The Port 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 Port Authority website at [http://www.panynj.gov/DoingBusinessWith/contractors/html/other\\_info.html](http://www.panynj.gov/DoingBusinessWith/contractors/html/other_info.html). Also, Proposers are encouraged to periodically access the Port Authority website at [http://www.panynj.gov/DoingBusinessWith/contractors/html/current.php#prof\\_ad](http://www.panynj.gov/DoingBusinessWith/contractors/html/current.php#prof_ad) for RFP updates and addenda.

Sincerely yours,

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

**P.A. Agreement #\*\*\*-09-\*\*\***  
DATE

FIRM NAME  
ADDRESS  
CITY, ST ZIP

Attention: CONTACT, TITLE

**SUBJECT: PERFORMANCE OF EXPERT PROFESSIONAL SERVICES –  
DEVELOPMENT OF A COMPREHENSIVE LONG-TERM REGIONAL  
GOODS MOVEMENT PLAN DURING 2009 AND 2010**

Dear CONTACT:

1. The Port Authority of New York and New Jersey (hereinafter, the "Authority") hereby offers to retain FIRM NAME (hereinafter, "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.

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

For the purpose of administering this Agreement, the Director has designated \*\*\*, TITLE, to act as his duly authorized representative. The Project Manager for this project is \*\*\*\*\*, at (\*\*\*) \*\*\*\_\*\*\*\*, or e-mail address [\\*\\*\\*\\*\\*@panynj.gov](mailto:*****@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 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. All items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Director. The Director may disapprove, if in his sole opinion said items are not in accordance with the requirements of this Agreement or professional standards. If any of the said items or any portion thereof are so

disapproved, the Consultant shall forthwith revise them until they meet the approval of the Director, but the Consultant shall not be compensated under any provision of this Agreement for performance of such revisions. No approval or disapproval or omission to approve or disapprove, however, shall relieve the Consultant of its responsibility under this Agreement to furnish the requested services in accordance with an agreed upon schedule and in accordance with professional standards.

6. 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, you shall be compensated as hereinafter provided for services already completed. It is understood, however, that this limitation shall not be construed to entitle you to the above amount as a minimum compensation.

7. 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 6 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; 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 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 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 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, 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 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 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 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 amounts 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 advanced in writing by the Director. The cost for all meals and lodging on approved overnight trips are limited to the amounts established by the United States General Services Administration for that locality.

General Services Administration (GSA) Rates:

*Domestic Rates:*

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

8. 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.

9. 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 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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 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.

## 20. 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.

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 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 expenses of attorneys. If so directed, the Consultant shall defend against any claim described in subparagraphs B, C and D above, in which event the Consultant shall not without obtaining express advance permission from the General Counsel of the Authority raise any defense involving in any way 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.

## 22. 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.

23. 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 "23G.", 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.

#### 24. 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.

#### 25. 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.

## 26. NON-DISCLOSURE/CONFIDENTIALITY, OFFERS OF EMPLOYMENT

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

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

## 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 an agreement for its own services to the Authority) to which it is contemplated the Authority may become a party, or participate in any way in the review or resolution of a claim in connection with such an agreement if the Consultant has a substantial financial interest in the Consultant or potential Consultant of the Authority or if the Consultant has an arrangement for future employment or for any other business relationship with said Consultant or potential Consultant, nor shall the Consultant at any time take any other action which might be viewed as or give the appearance of conflict of interest on its part. If the possibility of such an arrangement for future employment or for another business arrangement has been or is the subject of a previous or current discussion, or if the Consultant has reason to believe such an arrangement may be the subject of future discussion, or if the Consultant has any financial interest, substantial or not, in a Consultant or potential Consultant of the Authority, and the Consultant's participation in the preparation, negotiation or award of any agreement with such a Consultant or the review or resolution of a claim in connection with such an agreement is contemplated or if the Consultant has reason to believe that any other situation exists which might be viewed as or give the appearance of a conflict of interest, the Consultant shall immediately inform the Director in writing of such situation giving the full details thereof. Unless the Consultant receives the specific written approval of the Director, the Consultant shall not take the contemplated action which might be viewed as or give the appearance of a conflict of interest. In the event the Director shall determine that the performance by the Consultant of a portion of its services under this Agreement is precluded by

the provisions of this numbered paragraph, or a portion of the Consultant's said services is determined by the Director to be no longer appropriate because of such preclusion, then the Director shall have full authority on behalf of both parties to order that such portion of the Consultant's services not be performed by the Consultant, reserving the right, however, to have the services performed by others and any lump sum compensation payable hereunder which is applicable to the deleted work shall be equitably adjusted by the parties. The Consultant's execution of this document shall constitute a representation by the Consultant that at the time of such execution the Consultant knows of no circumstances, present or anticipated, which come within the provisions of this paragraph or which might otherwise be viewed as or give the appearance of a conflict of interest on the Consultant's part. The Consultant acknowledges that the Authority may preclude it from involvement in certain disposition/privatization initiatives or transactions that result from the findings of its evaluations hereunder or from participation in any agreements, which result, directly or indirectly, from the services provided by the Consultant hereunder.

## 28. DEFINITIONS

As used in sections 22 to 27 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.

FIRM NAME

-16-

DATE

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. 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 "31" to "32" and insert a new Paragraph "31" as follows:

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

## ATTACHMENT A

### PERFORMANCE OF EXPERT PROFESSIONAL SERVICES - DEVELOPMENT OF A COMPREHENSIVE LONG - TERM REGIONAL GOODS MOVEMENT PLAN DURING 2009 AND 2010

#### I. BACKGROUND

The Port Authority of New York and New Jersey (the “Port 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 Port 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.”

#### *Port Authority Strategic Plan of 2005*

Throughout the New York-New Jersey metropolitan region (the “region”), levels of traffic on the highway and rail network are unprecedented. As freight volumes grow, concern is escalating over the safety, security, reliability, costs, and community impacts of moving goods. The Port Authority’s Strategic Plan of 2005 (Strategic Plan) recognized that the time had come for the Port Authority to take the action needed to improve goods movement in the region. It was determined that a Comprehensive Regional Long-Term Goods Movement Plan (“GMP”) would allow the Port Authority to take a leadership position in cooperation with the States of New York and New Jersey and in cooperation with federal, municipal, and private stakeholders to develop strategies and begin implementing long-term solutions.

The goal of the GMP is to conceptualize a vision and framework for achieving the efficient goods movement strategies as outlined in the Strategic Plan, which provides a bi-state multi-modal perspective, while noting specific actions that must be taken to achieve this vision. The GMP will build upon past undertakings with other regional freight planning efforts, which tend to focus on specific projects or current capital program commitments.

The Strategic Plan states the Port Authority’s vision for a 2020 regional transportation system. The vision comprises various components of the system, including the goods movement transportation network. Specifically, the Port Authority envisions an efficient, reliable transportation and distribution network for goods delivery that minimizes truck miles within the region; reduces competition between passengers and freight for highway and rail capacity; and speeds goods via rail and barge to long-distance destinations beyond the region.

Additionally, the Strategic Plan identified a series of needs that require regional solutions and, in many cases, are the shared concerns of our partner transportation agencies. As a

technique for conceptualizing and discussing these multifaceted transportation issues, the Strategic Plan identified five strategic campaigns. Noting the importance of freight movement in the region, Campaign Three in the Strategic Plan is entitled “Moving Goods Effectively and Expeditiously.” Campaign Three was developed to address these issues by providing a transportation system that allows the region’s businesses and customers to balance their cost-need-reliability needs so that goods handling remains an economic stimulant for the region.

### Goods Movement Vision

Through the guidance and vision provided by the Strategic Plan and consistent with the impacts and challenges of the freight industry in the region, the Port Authority’s vision of the goods movement transportation system is as follows:

By 2035, through the leadership of the Port Authority, and in cooperation with its partners, the metropolitan region will have an environmentally sustainable, integrated, efficient, and multimodal freight transportation system as needed to maintain the region's global competitiveness, economic strength, and provide for low-priced goods for the region's people, delivered through a partnership between government and industry.

### Comprehensive Long-Term Regional Goods Movement Plan

The purpose of the GMP is to assist the Port Authority and its partners in developing a framework and action plan for the identification and prioritization of freight strategies and projects within a 30-year planning horizon. The intent is to create a regional and local distribution system that promotes regional economic competitiveness; fosters freight-related development that makes efficient use of the transportation system; moves goods through logistic chains in a flexible, reliable, and cost-effective manner; is safe, secure, and environmentally sustainable; and is seamlessly integrated across geographic and jurisdictional boundaries.

Additionally, the Plan would provide the region with the vision, strategy, and project concepts required to create an effective and expeditious regional goods movement network by 2035 while emphasizing a multimodal approach for accommodating current and forecasted increases in freight volumes. It is intended both to allow for measurable benefits in efficiency, reliability, and network resiliency and to reduce impacts on the environment and local communities. The Plan will be reinforced by a set of investment, pricing, and regulatory actions set in place collectively by regional transportation providers.

Goods movement in the NY-NJ metropolitan area must share highway, street, and rail infrastructure with passenger cars, public transit, and other transportation modes. While demand for passenger modes continues to grow, demand for goods movement is expected to grow even more sharply in the coming decades. This poses a significant challenge to regional mobility across all modes, especially in the context of aging infrastructure with poor or obsolete intermodal connections. At the same time, the region faces difficult challenges that often cannot be addressed directly in nearer-term transportation plans, such as the need to sharpen its economic competitiveness; promote land development patterns that make efficient use of the freight transportation system; move goods reliably and cost-effectively; increase safety, security, and environmental sustainability; and harmonize its technological and regulatory systems.

Public agencies, elected officials, business advocates, communities, and environmental interests have endorsed the need to improve regional goods movement and respond to these challenges. Both New York and New Jersey have begun to outline strategies to improve goods movement, while minimizing their impact on the transportation network and local communities. The GMP shall be designed to build upon and complement those efforts with a region-wide, long-term focus on addressing some of the region's most difficult strategic challenges.

Additionally, this GMP will seek to identify innovative new policy solutions and approaches that address the freight and goods movement system as a whole, rather than with a narrow modal or geographic focus. Historically, a single modal perspective has driven freight transportation construction and management with individual operating agencies striving to maintain their facilities and keep pace with growing demand for their mode-specific customers. There is a need for a shift from the modal-specific model to an integrated, multi-modal, and long-term approach to planning for the region's freight transportation network.

The ultimate success of any plan to improve the efficiency of goods movement in the region will depend on the actions, small and large, of individual shippers, carriers, and receivers – many thousands of private firms. But their short- and long-term investments, transportation decisions, and contractual arrangements will complement a plan's new policy directions if they are established with sufficient realism, clarity, and certainty. It is essential to the success of the GMP that the recommendations developed hereunder mobilizes the participation of the private sector, including those businesses involved directly in the freight industry and those that depend on the timely delivery of goods, and contains a strong implementation component, to ensure that its recommendations are converted into actions.

The Port Authority will work in cooperation with the New York State Department of Transportation (NYSDOT) and New Jersey Department of Transportation (NJDOT), as part of the "Steering Committee", towards implementing study recommendations aimed at ensuring that the region's goods movement network remains a viable economic contributor to the region. The two Departments of Transportation will have responsibilities for transportation networks in their respective states, while the Port Authority has additional bi-state roles for interstate transportation as well as maritime and aviation gateways.

Ultimately, the GMP shall identify new strategies, systems, business practices, and methods to distribute goods. This includes developing freight-dedicated systems where appropriate, facilitating shared passenger/freight systems, minimizing the environmental impact of the goods movement transportation network, and identifying opportunities for innovative use of technology and intelligent transportation systems (ITS) in goods movement. The GMP is intended to be far-reaching in scope, providing guidance to the Port Authority and its regional private and public sector partners in the goods movement industry, and outline the steps necessary in order to achieve the long-term goods movement vision.

A "Governmental Advisory Committee" (GAC) will serve as the advisory group to the Steering Committee, on an as-needed basis. Members of the GAC will include representatives from key stakeholders in the region, such as the State of Connecticut DOT, State of Pennsylvania DOT, New Jersey Turnpike Authority, New York City Department of Transportation, Metropolitan Transportation Authority Bridges and Tunnels, New York Metropolitan Transportation Council, the North Jersey Transportation Planning Authority (NJTPA), South Western [Connecticut] Region Metropolitan Planning Organization, the



recommendations in this study. All work on Phase III must be completed within 360-days after receipt by you of one copy of the Agreement executed by the Port Authority.

### **III. DESCRIPTION OF CONSULTANT'S TASKS**

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

#### **TASK A. PROGRAM MANAGEMENT/GENERAL ADMINISTRATION**

1. Meet with Port Authority staff to review the Project Management Plan prepared by you and included herewith and made a part hereof as Exhibit A and incorporate Port Authority changes as appropriate.
2. Provide program management services, and coordination as required for delivery of the GMP. This shall include providing work oversight, schedule management of project work tasks, deliverables, and milestones, critical path and other activities as required; maintaining the project schedule and developing the GMP.
3. Communicate work progress with the Port Authority on a weekly basis.
4. Attend meetings and make presentations on project status/issues and schedule to the Steering and GAC, project stakeholders, and other agencies and groups as appropriate.

Unless otherwise directed, for all meetings attended by the Consultant, prepare meeting agendas and minutes, and provide presentation materials as required for each meetings. Besides the progress meetings, the Consultant shall participate in the following:

- a. Twelve (12) monthly Steering Committee meetings;
- b. Four (4) GAC meetings (Kick-off meeting and briefings at the end of Phases I, II, and III);
- c. Up to four (4) internal coordination meetings with the Port Authority and Executive Management as requested by the Port Authority;
- d. Up to eight (8) meetings with the NJTPA Freight Initiatives Committee, the NYMTC Freight Transportation Working Group, and East of Hudson Task Force, and other regional standing freight committees, as approved by the Port Authority;
- e. Three (3) final presentations to Steering Committee Executive Management, which will include meetings at Port Authority offices in New York, NY, New Jersey DOT offices in Trenton, NJ, and New York DOT offices in Albany, NY; and
- f. Other meetings, as provided herein.

#### **TASK B: STAKEHOLDER IDENTIFICATION**

1. Propose potential regional goods movement stakeholders for participation in the workshops and focus groups required below (Tasks E and K). These stakeholders shall represent public sector agencies and private sector companies involved in the goods movement industry and include, but are not limited to:
  - Marine, rail, truck, and air cargo transportation providers
  - Shippers
  - Third-party logistics providers
  - Warehousing and distribution centers

- Freight operators (e.g., truck drivers, freight train conductors, longshoremen, etc.)
  - Highway enforcement agencies
  - Importers and exporters of agricultural and manufactured goods
  - Permitting agencies
  - Land use planning agencies
  - Local, regional, and statewide transportation agencies
  - Capital improvement programs
  - Research/educational institutions with experience in goods movement issues
  - Environmental groups interested in the goods movement industry
2. As approved by the Port Authority, notify stakeholders and request their participation in the workshops or focus groups as appropriate.

*PHASE I: CURRENT CONDITIONS ASSESSMENT*

TASK C: REGIONAL GOODS MOVEMENT ENVIRONMENTAL SCAN

1. Produce a brief synopsis of select regional freight planning studies completed over the last ten (10) years. The number of studies and plans reviewed shall not exceed twenty (20). The Port Authority will assist the Consultant in identifying and obtaining relevant reports and studies. Of the plans identified, obtain the most current version of the plan, if superseded by a plan listed below. Studies to be reviewed may include, but are not limited to the following:
- a. Cross Harbor Freight Movement Study EIS
  - b. Delaware Valley Regional Planning Commission (DVRPC) Freight Plan, 2007
  - c. NYC Truck Route Management and Community Impact Reduction Study, 2007
  - d. NYS Rail Plan, 2008
  - e. NYSDOT Transportation Master Plan, 2006
  - f. NJDOT Freight Plan, 2008
  - g. NJTPA Long Range Transportation Plan, 2005
  - h. NJTPA Freight System Performance Assessment Study, 2005
  - i. NYMTC Long Range Transportation Plan, 2005
  - j. NYMTC Hunts Point Waterborne Freight Assessment, 2004
  - k. NYMTC Regional Freight Plan, 2004
  - l. Port Authority Comprehensive Port Improvement Plan
  - m. Port Authority Bi-State Domestic Freight Ferries Study, 2006
  - n. Port Authority East of Hudson Rail Freight Study (draft, ongoing)
  - o. South Western Region [Connecticut] Metropolitan Planning Organization Long Range Transportation Plan 2007

Prepare a draft Regional Freight Studies Synopsis, summarizing the purpose, content, findings, and recommendation of each of studies reviewed. Incorporate Port Authority

comments as required, and resubmit as part of the Final Report required under Task M, below.

2. Prepare a draft Definitions and Technical Terms technical memorandum comprised of a set of common definitions to describe the goods movement network, e.g. “truck”, “short-sea shipping”, “customer”, and “region”. Incorporate Port Authority comments as required, and resubmit as part of the Final Report required under Task M, below.
3. Summarize current goods movement conditions and trends from the studies reviewed in Task C.1. No collection of new information or data is expected in this task, unless authorized by the Port Authority. All information is based on the findings from Task C.1. Topics of focus shall include:
  - a. Existing goods movement infrastructure in the region. This infrastructure may include, but is not limited to: interstate and state highways; Class 1 and shortline railroads; rail yards; port facilities; intermodal facilities; air cargo facilities; and major warehousing and distribution centers;
  - b. Current goods movement volume and value data for the region by mode and commodity. This may include, but is not limited to: truck movements; rail movements; air cargo shipments; marine shipments; commodity types; and quantities and values of goods shipped into, out of, and within the region;
  - c. Spatial distribution of regional freight activity, particularly including major generators. These freight activity generators may include, but are not limited to: large office building complexes; regional distribution centers; manufacturing areas; warehousing; freight terminals; supply centers; large shopping areas; gravel pits; lumber mills; and solid waste facilities;
  - d. Environmental impacts of freight activity in the region, particularly by mode and freight corridor. These impacts may include, but are not limited to: identifying air quality and other environmental impacts at points of congestion; bottlenecks in the freight network; and areas of concentration of freight services;
  - e. Policy and regulatory environment at the local, regional, and national levels. This may include, but is not limited to: freight movement and infrastructure regulations; procedures; restrictions; taxes licenses; and anticipated changes to this regulatory and institutional environment within the next ten (10) years; and
  - f. Opportunities and sources for freight system funding. These sources may include, but are not limited to: public (local, regional, federal) and private sector sources and existing private-public sector partnerships. Highlight positive and negative elements of the funding sources and options identified (e.g., regularity/reliability of funding, ease of access to funds, competitiveness for funding, timing of allocation, restrictions on project type, etc.).
4. Prepare a draft Goods Movement Conditions and Trends Report summarizing your findings in performance of this task. Incorporate Port Authority comments as required, and resubmit as part of the Final Report required under Task M, below.

#### TASK D: INNOVATIVE PRACTICES SCAN

1. Produce a brief synopsis for select seminal goods movement plans, projects, or products at the national and international level that exhibit innovative initiatives in goods movement improvements in urban areas completed over the last ten (10) years. Review no more than thirty (30) studies and plans. The Port Authority will assist the Consultant in identifying and obtaining relevant reports and studies and initiatives. Examples of innovative initiatives include, but are not limited to:

- Asia-Pacific Gateway and Corridor Initiative, Canada
- Auckland Regional Freight Strategy, New Zealand
- Best Urban Freight Solutions (BESTUFS) I and II, European Union
- Central London Congestion Charging Impacts and Monitoring Third annual Report, April 2005
- Chicago Region Environmental and Transportation Efficiency Program
- Critical Cargo, Regional Action Agenda for Chicago, 2002
- City Logistics Solutions, European Union
- Dublin Port Tunnel, Ireland
- Dynon Port Rail Link (DPRL), Australia
- FAST Corridor Coalition, Puget Sound, United States
- Freight Quality Partnerships (FQP), United Kingdom
- Freight Rail Futures for the City of Chicago, 2004
- Goods Movement Action Plan, State of California, United States
- Japan: Development of urban freight handling facilities to consolidate freight volumes prior to CBD and city area distribution
- Korean Ministry of Construction & Transport: Urban Goods Transport Planning Manual, South Korea
- Melbourne Port@L Initiative, Australia
- The Metropolis Freight Plan, Chicago 2020
- Mississippi Valley Freight Coalition (MVFC), United States
- PierPASS at the Ports of Los Angeles and Long Beach
- Pilot Actions for Combined Transport (PACT), European Union
- Port Freight Logistics Plan (Port Botany), Sydney, Australia
- PortVision 2020, Rotterdam, The Netherlands
- Southern California Regional Strategy for Goods Movement
- Sustainable Mobility and Accessibility Research and Transformation (SMART) program at the University of Michigan in Ann Arbor, United States
- Trans-European Transport Networks (TEN-T), European Union

Prepare a draft Innovative Practices Synopsis, describing the key challenges or problems that the planning agencies sought to solve, the frameworks they used for evaluating alternatives, the solutions that they ultimately recommended, and if available, findings about the effectiveness of the solutions at addressing their intended objectives. Incorporate Port Authority comments as required, and resubmit as part of the Final Report required under Task M, below.

2. Identify and describe Intelligent Freight Technologies and other ITS systems in use in areas of the goods movement industry, such as asset tracking, on-board status monitoring, gateway facilitation, freight status information, and network status information. The Port

Authority will assist the Consultant in identifying and obtaining relevant technologies. Review no more than ten (10) types of technology. Technological initiatives to be reviewed may include, but are not limited to the following:

- FHWA Electronic Freight Management (EFM) Standards Strategy
  - Electronic Supply Chain Manifest (ESCM)
  - Freight Information Real-Time System for Transport (FIRST)
  - Cargo\*Mate Freight Information Highway (FIH) and Chasis Tracking
  - Asia Pacific Economic Cooperation (APEC) STAR BEST and Smart and Secure Tradelanes (SST)
  - U.S. Department of Transportation (US DOT) Research and Innovative Technology Administration (RITA): Program Assessment Documents for Commercial Vehicles/Freight
3. Prepare a draft Intelligent Transportation Systems in Goods Movement Synopsis summarizing your findings in performance of this task. Incorporate Port Authority comments as required, and resubmit as part of the Final Report required under Task M, below.

#### TASK E: WORKSHOPS AND FOCUS GROUPS – OUTREACH 1

1. Workshop 1 (will take place after the completion of Task D): Share the findings and summaries from Task C and D and obtain stakeholder perspectives and suggestions, which shall be incorporated in the preparation of subsequent tasks. Workshop 1 shall include approximately fifty (50) attendees, including the GAC. The duration of this workshop is expected to be no more than three (3) hours.
2. Focus Group 1 (will take place after the completion of Task D): Conduct a targeted discussion of the findings and summaries from Task C and D. The focus groups shall either be industry-specific or issue-specific, based on the determination of the Port Authority. Conduct no more than four (4) meetings with each identified group. Obtain perspectives and suggestions from the focus groups, which shall be incorporated in the preparation of subsequent tasks. Each focus group shall include no more than ten (10) attendees. The duration of each session is expected to be no more than two (2) hours.
3. Provide a Moderator’s Guide for the workshop and focus groups prior to the meetings, to be reviewed and approved by the Port Authority, which shall include, but is not limited to: background information, issues specific to the participants, and topics to be discussed.
4. Provide copies of the draft reports, prepared under Tasks C and D, to stakeholders prior to participating in the workshop.
5. Provide a draft Stakeholder Outreach Report: Phase 1, summarizing the findings in performance of this task. Incorporate Port Authority comments as required, and resubmit as part of the Final Report required under Task M, below.

#### TASK F: REGIONAL GOODS MOVEMENT FACTORS

1. Incorporating the information gathered from Tasks C and D, and the outreach outlined in Task E, identify those factors anticipated to influence current goods movement in the region, and the resulting economic impacts, over the next thirty (30) years, noting those with global, national, state, regional, and local significance.

2. For those items identified in preceding item F.1, describe likely influences and their effects on the future state of freight movement in the region. Incorporate alternate scenarios for influences, such as fuel costs in which future states are uncertain. Alternate scenarios to be addressed shall include, but not be limited to those that anticipate:
  - a. changes in market demand. (Utilize freight forecasts, gross regional product, population, employment, and retail sales assumptions);
  - b. changes in industry operations including those associated with industry productivity, workforce availability, fuel costs, innovation, technology, and industry integration;
  - c. changes in trucking industry needs including those of driver needs, rest stop, full service truck stops, and staging areas;
  - d. changes in alternate modes to trucking (e.g. short sea shipping, intermodal rail);
  - e. changes in air quality, emissions, and other environmental initiatives (local, regional, and national) on the freight industry;
  - f. changes in the regulatory and institutional environment, such as the potential impacts of the Rail Safety Improvement Act of 2008 on regional rail freight operations;
  - g. trends/changes in competition (competitive regions, ports, airports, etc) and how their growth scenarios may affect the region's catchment areas/freight flows;
  - h. potential impediments that can constrict regional and corridor freight movement (including geography, density, infrastructure limitations, condition of intermodal connectors, last mile issues, etc.);
  - i. emerging trends in consumerism and consumer concerns with goods delivery, including pricing, environmental impacts, traffic/congestion, buying trends (e.g., "buy local"); and
  - j. emerging trends in shipper and business needs related to regional goods movement, such as farm-to-market transportation, transport of imported goods to the region from their port-of-entry, and the export of goods produced in the region.
3. Prepare a draft Regional Goods Movement Factors technical memorandum integrating but not limited to the information compiled in performance of this Task. Incorporate Port Authority comments as required, and resubmit as part of the Final Report required under Task M, below.

## PHASE II: GOALS AND STRATEGIES

### TASK G: LONG-TERM REGIONAL GOODS MOVEMENT GOALS

1. Review the Strategic Plan and its Goods Movement Vision, and meet with Port Authority staff, and others (as required by the Port Authority) to identify and prioritize strategic goals in terms of regional significance for an effective goods movement system.

The strategic goals shall drive policy and infrastructure investment decisions in meeting the region's goods movement needs as well as clearly articulate the following planning objectives, which may be modified upon approval by the Port Authority:

- a. Promote regional economic competitiveness through a transportation and logistics sector capable of exporting transportation services (e.g. by ensuring an open,

- competitive, flexible, technologically advanced sector with a highly skilled labor force).
- b. Foster freight-related land development patterns that make efficient use of transportation networks.
  - c. Move goods through logistic chains and through the region efficiently, reliably and cost-effectively.
  - d. Ensure that the freight transportation system is safe, secure, resilient, and environmentally sustainable (e.g. by mitigating risk of storm surges; minimizing greenhouse gas emissions; etc.).
  - e. Identify opportunities to promote seamless freight movement across jurisdictional boundaries (e.g. by harmonizing regulations, procedures, and technologies).
2. Prepare a draft Regional Strategic Goals technical memorandum summarizing your findings and recommendations in performance of this task. Incorporate Port Authority comments as required, and resubmit as part of the Final Report required under Task M, below.

#### TASK H: DEVELOP LONG-TERM REGIONAL GOODS MOVEMENT STRATEGIES

1. Develop broad-based and long-range regional goods movement strategies, which will support the goals identified in Task F.
  - a. Issues that shall be considered shall include, but not be limited to, the following:
    - 1) Synchronization and Coordination
    - 2) Land Use
    - 3) Last-Mile Constraints
    - 4) Safety and Security
    - 5) Environmental Impact and Mitigation
    - 6) Regional Competitiveness
    - 7) Community Sensitive Design
    - 8) Financing
  - b. Specific strategies to be considered include:
    - 1) National freight initiatives, such as the USDOT Corridors of the Future Program, Critical Commerce Corridors (3C), Marine Highway Corridors
    - 2) Local and regional freight gateway strategies (e.g., manufacturing areas, warehousing, freight terminals, supply centers, large shopping areas, gravel pits, lumber mills, and garage dumps)
    - 3) Freight infrastructure improvement strategies that include transportation modes, transportation network/corridors, and gateways
    - 4) Freight improvement strategies that identify how to maximize freight corridor flows and serve inadequately served markets (e.g., high density areas, geographically restrained areas)

- 5) Strategies that reduce or remove statutory, regulatory, or institutional barriers that hinder improved freight transportation performance
  - 6) Applications of information technology to improve freight operations
  - 7) Integration of current/new initiatives that can reduce the environmental impact of the goods movement industry
  - 8) Strategies that improve the collaboration among public and private sectors
  - 9) Strategies that identify and encourage targeted logistics development areas
2. Provide a draft technical memorandum identifying the region's long-term regional goods movement strategies that support the goals identified in performance of this Task. Incorporate Port Authority comments as required and resubmit as part of the Final Report required under Task M, below.

### PHASE III: ACTION PLAN

#### TASK I. FREIGHT NETWORK CRITERIA AND PERFORMANCE MEASURES

1. Based on the information gathered in the previous phases define selection criteria for regional goods movement initiatives, beyond the immediate "bottleneck" and "state of good repair solutions". These criteria shall be used to identify and prioritize projects and policies that support the goals and supporting strategies identified in Phase II. Selection criteria shall identify both project- and policy-specific initiatives.
2. Identify freight performance measures to be used to assess current and future components of the freight network. The performance measures shall identify and assess the state of the region's freight network and infrastructure based on factors, which may include but are not limited to:
  - Cost
  - Time reliability
  - Flexibility
  - Redundancy
  - Environmental impact
  - Energy Efficiency
  - Land use compatibility with neighboring land uses
  - Compatibility with passenger transportation.
  - Financial capacity

The freight performance measures will demonstrate the degree of compliance with the strategies identified in Task H and assist the region in achieving the long-term regional goods movement goals identified in Task G. Weighting and prioritization of performance measures may vary based on approval of the Port Authority.

3. Provide a draft technical memorandum defining selection criterion for regional goods movement initiatives. Incorporate Port Authority comments as required and resubmit as part of the Final Report required under Task M, below.
4. Provide a draft technical memorandum defining performance measures for current and future components of the regional freight network. Incorporate Port Authority comments as required and resubmit as part of the Final Report required under Task M, below.

## TASK J: PROJECT AND POLICY RECOMMENDATIONS

Prepare a project summary and policy recommendations report, to include but not be limited to the following:

1. Recommend short-, mid-, and long-term projects and policies based on the information compiled in the previous tasks by comparing the performance indicators and selection criteria from Task I to the goods movement trends and factors in Phase I in order to gauge efficiencies/deficiencies.
2. Identify key deficient links within the local and regional freight network consistent with the goals and strategies, and describe the long-term regional needs, including conditions for:
  - a. Moving freight into and out of the region
  - b. Future shortfalls in air, road, rail, and water capacity
  - c. Moving local freight along regional & national corridors
  - d. Serving local markets and “last mile”
3. Where applicable, recommendations should be both local and regional in scope. Specify how all the major network projects will interrelate on a system basis and work together to enhance the performance of the entire system. Each recommendation, when appropriate, should describe potential environmental impacts and, where applicable, methods to reduce the environmental impacts of each recommendation.

Recommendations shall include the following:

a. System Components

Recommend the types of infrastructure and system enhancements needed regionally, and for particular markets, gateways and corridors. This will include identification of currently inadequate system components and recommendations for full integration of the freight transportation infrastructure that will remove these obstacles, including intermodal connectors and “last mile” access. Additionally, this will include enhancements to the Intelligent Transportation Systems (ITS) network and other technology improvements.

b. System Operations

Select operating policies and procedures needed regionally, such as special use priority lanes, better-defined rail operating regulations for freight on passenger lines, variable pricing in terminals, user fees, and time of day pricing.

c. System Regulations

Propose regulations that may be adopted by the various operating and regulating agencies in order to provide consistent direction to freight carriers while meeting national standards.

d. System Maintenance

Develop a long-term and aggressive state-of-good repair program that reduces the frequency and duration of future infrastructure repairs and limits maintenance costs.

e. System Funding

- Identify opportunities for system funding, including existing and future sources. Examples include public (local, regional, federal) and private sector sources, opportunities for private-public sector partnerships, and innovative financing techniques (e.g., dedicated truck tollways).
4. Based on the recommendations above, draft a multi-pronged approach for improvements in critical areas of the regional infrastructure network, and state why each recommendation will benefit the following sectors, as appropriate:
- a. General
- Local communities
  - Local and regional economy
  - Environmental
  - Passenger and commuter traffic (including rail and vehicle)
- b. Goods Movement Network
- Urban rail/freight service (including short-haul rail)
  - Intermodal facilities
  - Local distribution vehicles and centers
  - Regional distribution vehicles and centers
  - Local waterborne distribution
  - Regional waterborne distribution
  - Air cargo distribution
  - Small package distribution
5. Identify estimated costs for select projects agreed to by the Port Authority, after the completion of Task J.4., and develop a timeline for phased project implementation.
6. Provide a technical memorandum summarizing the policy and project recommendations that meet the long-term regional goods movement goals and strategies.

TASK K: WORKSHOPS AND FOCUS GROUPS – OUTREACH 2

1. Workshop 2 (will take place *during* Task J): Share the study findings to date from the tasks completed and obtain stakeholder perspectives. Workshop 2 shall include approximately fifty (50) attendees, including the GAC. The duration of this workshop is expected to be no more than three (3) hours.
2. Focus Group 2 (will take place *during* Task J): Conduct a targeted discussion of the progress to date of the tasks completed. This focus group shall either be industry-specific or issue-specific, based on the determination of the Port Authority. Conduct no more than four (4) meetings with each group. Share the study findings to date from the tasks completed and obtain stakeholder perspectives. Each focus group shall include no more than ten (10) attendees. The duration of each session is expected to be no more than two (2) hours.
3. Provide a Moderator’s Guide for the workshop and focus groups to be reviewed and approved by the Port Authority, which shall include, but is not limited to: background information, issues specific to the participants, and topics to be discussed.

4. Provide a draft Stakeholder Outreach Report: Phase 2, summarizing the findings in performance of this task. Incorporate Port Authority comments as required, and resubmit as part of the Final Report required under Task M, below.

#### TASK L: ACTION PLAN

1. Prepare an Action Plan that outlines the necessary steps and responsibilities required to implement the GMP. This may include, but is not limited to:
  - a. a new regional mechanism that will assist in meeting the goals identified in the plan;
  - b. draft Memorandum of Understanding template for use among the partners;
  - c. regional utilization of performance measures and indicators (Task I) that will evaluate regional freight infrastructure projects, both existing and planned;
  - d. regional task forces or sub-groups that will focus on specific issues noted in the Action Plan that may require further attention as identified by the Steering Committee and GAC;
  - e. leadership positions on specific freight issues that need to be undertaken by the Port Authority, New York State Department of Transportation, New Jersey Department of Transportation, and the other regional partners; and
  - f. implementation schedule and milestones needed to achieve the prioritized policy, project, and regulatory recommendations outlined in the plan.
2. Provide a draft Action Plan identifying the region's long-term regional goods movement strategies that support the goals identified in performance of this Task. Incorporate Port Authority comments as required and resubmit as part of the Final Report required under Task M, below.

#### TASK M: FINAL REPORT

Draft a Final Report that includes, but is not limited to the following:

1. Executive Summary
2. Introduction and Purpose of Study
3. Phase I: Current Conditions Assessment
  - a. Regional Freight Studies Synopsis
  - b. Goods Movement and Trends Report
  - c. Innovative Practices Synopsis
  - d. Intelligent Transportation Systems in Goods Movement Synopsis
  - e. Regional Goods Movement Factors Report
4. Phase II: Long-Term Regional Goods Movement Goals and Strategies
5. Phase III: Action Plan
  - a. Freight Network Selection Criteria and Performance Measures
  - b. Regional Goods Movement Project and Policy Recommendations

- c. Action Plan
- 6. Conclusions and Recommendations
- 7. Appendix (to include)
  - a. Draft Memorandum of Understanding (MOU) Template
  - b. Acronyms
  - c. Definitions
  - d. Data sources used in Analysis
  - e. Detailed Methodology for Analysis
  - f. Outreach 1
    - Moderator's Guide for Outreach 1
    - Summary Report for Tasks C and D
    - Stakeholder Outreach Report 1
  - g. Outreach 2
    - Moderator's Guide for Outreach 2
    - Stakeholder Outreach Report 2
  - h. All stakeholder meeting minutes, summaries, and list of attendees
  - i. PowerPoint presentations, handouts, and other supporting documents used in meetings
  - j. Reference list of previous reports, studies, and surveys
  - k. Technical memorandum noting how tasks noted in scope have been addressed in Summary Report

#### **IV. SUBMISSION AND SCHEDULES**

All products and deliverables referred to in this scope of work (including meeting minutes, technical memorandum, reports, etc.) shall be provided in electronic format (MS Office formats) and all electronic data products (including digital orthophotos, CAD files, GIS shape files, maps, engineering drawings, databases) shall be provided to the Port Authority on a CD or DVD on request.

Submit the work identified above for review by the Port Authority within the number of calendar days as stipulated below after receipt by you of one (1) copy of the Agreement executed by the Port Authority.

- A. Attend kick-off meeting with Port Authority and Steering Committee and submit a detailed Project Management Plan required under Task A, above, within 7-calendar days. Comments will be forwarded to you within 7-calendar days after receipt of said submission.

- B. Submit 10-copies of the Regional Freight Studies Synopsis required under Task C, above, within 30-calendar days. Comments will be forwarded to you within 7-calendar days after receipt of said submission.
- C. Submit 10-copies of the Definitions and Technical Terms memorandum required under Task C, above, within 20-calendar days. Comments will be forwarded to you within 7-calendar days after receipt of said submission.
- D. Submit 10-copies of the Goods Movement Conditions and Trends Report required under Task C, above, within 35-calendar days. Comments will be forwarded to you within 14-calendar days after receipt of said submission.
- E. Submit 10-copies of the Innovative Practices Synopsis required under Task D, above, within 60-calendar days. Comments will be forwarded to you within 7-calendar days after receipt of said submission.
- F. Submit 10-copies of the Intelligent Transportation Systems in Goods Movement Synopsis required under Task D, above, within 60-calendar days. Comments will be forwarded to you within 7-calendar days after receipt of said submission.
- G. Submit 10-copies of the Summary Report from Tasks C and D required under Task E, above, within 75-calendar days. Comments will be forwarded to you within 7-calendar days after receipt of said submission. Once approved, this Report to be distributed to attendees 7-days prior to Workshop and Focus Group 1.
- H. Submit 10-copies of the Moderator's Guide for Workshop and Focus Group 1 required under Task E, above, within 75-calendar days. Comments will be forwarded to you within 7-calendar days after receipt of said submission.
- I. Submit 15-copies of the Stakeholder Outreach Report 1 required under Task E, above, within 105-calendar days. Comments will be forwarded to you within 14-calendar days after receipt of said submission.
- J. Submit 10-copies of the Regional Goods Movement Factors Report required under Task F, above, within 140-calendar days. Comments will be forwarded to you within 14-calendar days after receipt of said submission.
- K. Submit 15-copies of the Regional Strategic Goals technical memorandum required under Task G, above, within 170-calendar days. Comments will be forwarded to you within 14-calendar days after receipt of said submission.
- L. Submit 10-copies of the Long-term Regional Goods Movement Strategies technical memorandum required under Task H, above, within 200-calendar days. Comments will be forwarded to you within 14-calendar days after receipt of said submission.
- M. Submit 10-copies of the Regional Goods Movement Initiatives Selection Criteria technical memorandum required under Task I, above, within 225-calendar days. Comments will be forwarded to you within 14-calendar days after receipt of said submission.
- N. Submit 10-copies of the Regional Freight Network Performance Measures and Indicators technical memorandum required under Task I, above, within 250-calendar days.

Comments will be forwarded to you within 14-calendar days after receipt of said submission.

- O. Submit 10-copies of the Moderator's Guide for Workshop and Focus Groups 2 required under Task K, above, within 265-calendar days. Comments will be forwarded to you within 7-calendar days after receipt of said submission. Once approved, this Report to be distributed to attendees 7-days prior to Workshop and Focus Group 2.
- P. Submit 10-copies of the Stakeholder Outreach Report 2 required under Task K, above, within 285-calendar days. Comments will be forwarded to you within 14-calendar days after receipt of said submission.
- Q. Submit 10-copies of the Policy and Project Summary Recommendations technical memorandum required under Task J, above, within 295-calendar days. Comments will be forwarded to you within 14-calendar days after receipt of said submission.
- R. Submit 10-copies of the Action Plan required under Task L, above, within 310-calendar days. Comments will be forwarded to you within 14-calendar days after receipt of said submission.
- S. Submit 10-copies of the Draft Final Report required under Task M, above, within 330-calendar days. Comments will be forwarded to you within 14-calendar days after receipt of said submission.
- T. Submit 10-copies of the Final Report within 360-calendar days.

## **V. CONDITIONS AND PRECAUTIONS**

### **1. General**

Immediately inform the Port Authority Project Manager of any unsafe condition discovered at any time during the course of this work.

### **2. Work Areas**

The Consultant shall limit this work to the areas necessary for the performance of the required services and shall not interfere with the operation of any facility without first obtaining specific approval from the Project Manager.

### **3. Work Hours**

Perform work at Port Authority sites between the hours of 8:00 A.M. and 4:00 P.M., Monday through Friday. 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 specifically directed by Port Authority Project Manager.

## **VI. 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 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 \$2,000,000 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 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. 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 contract. 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 Contractor shall promptly obtain a new and satisfactory certificate and/or policy.

\* \* \*

**ATTACHMENT B**

**PERFORMANCE OF EXPERT PROFESSIONAL SERVICES -  
DEVELOPMENT OF A COMPREHENSIVE LONG - TERM REGIONAL  
GOODS MOVEMENT PLAN DURING 2009 AND 2010 (RFP #17532)**

**AGREEMENT ON TERMS OF DISCUSSION**

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

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

\_\_\_\_\_  
**(Company)**

\_\_\_\_\_  
**(Signature)**

\_\_\_\_\_  
**(Title)**

\_\_\_\_\_  
**(Date)**

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

**ATTACHMENT C**

**COMPANY PROFILE**

**PERFORMANCE OF EXPERT PROFESSIONAL SERVICES -  
DEVELOPMENT OF A COMPREHENSIVE LONG - TERM REGIONAL  
GOODS MOVEMENT PLAN DURING 2009 AND 2010 (RFP #17532)**

1. Company Name (print or type):

\_\_\_\_\_

2. Business Address (to receive mail for this RFP - no PO Boxes):

\_\_\_\_\_

\_\_\_\_\_

3. Business Telephone Number: \_\_\_\_\_

4. Business Fax Number: \_\_\_\_\_

5. Firm website: \_\_\_\_\_

6. Federal Employer Identification Number (EIN): \_\_\_\_\_

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

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

\_\_\_\_\_

\_\_\_\_\_

9. Officer or Principal of Firm and Title:

\_\_\_\_\_

10. Name, telephone number, and email address of contact for questions & to schedule presentations:

\_\_\_\_\_

\_\_\_\_\_

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

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

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

**ATTACHMENT D**

**PERFORMANCE OF EXPERT PROFESSIONAL SERVICES - DEVELOPMENT OF A COMPREHENSIVE  
LONG-TERM REGIONAL GOODS MOVEMENT PLAN DURING 2009 AND 2010 (RFP #17532)**

**<YOUR FIRM NAME>**

**Task A - Program Management/General Administration**

Name	Title	Company	Hours	Hourly Rate	Multiplier	Billing Rate	Cost

**Total Hours Task A: 0                      Total Cost Task A: \$0.00**

**Task B - Stakeholder Identification**

Name	Title	Company	Hours	Hourly Rate	Multiplier	Billing Rate	Cost

**Total Hours Task B: 0                      Total Cost Task B: \$0.00**

**Task C - Regional Goods Movement Environmental Scan**

Name	Title	Company	Hours	Hourly Rate	Multiplier	Billing Rate	Cost

**Total Hours Task C: 0                      Total Cost Task C: \$0.00**

**Task D - Innovative Practices Scan**

Name	Title	Company	Hours	Hourly Rate	Multiplier	Billing Rate	Cost

**Total Hours Task D: 0                      Total Cost Task D: \$0.00**





**Task M - Final Report**

Name	Title	Company	Hours	Hourly Rate	Multiplier	Billing Rate	Cost

**Total Hours Task H: 0                      Total Cost Task M: \$0.00**

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**Anticipated Itemized Expenses**

Description of Expense	Cost

**Reimb. Total Cost:                      \$0.00**

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**TOTAL PROJECT                      Hours =                      0                      Cost =                      \$0.00**

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