



Philadelphia Regional Port Authority

PROJECT 16-127.S

**Request for Proposal for Construction Management Services for Pier 84 Outshore
End Refurbishment**

Key Dates:

THERE IS NO MANDATORY PRE-PROPOSAL MEETING FOR THIS PROJECT.

The name/s of the individuals that will be attending must be provided to the Procurement Department (in writing) at least twenty-four hours prior to the meeting. E-mail to procurement@philaport.com. Attendance is only mandatory if a firm is planning on being a PRIME consultant.

Questions: Due in writing by **12:00 p.m., Thursday, November 17, 2016** by emailing Procurement@philaport.com

Proposal Submission Deadline: Proposals will be received in the office of the Philadelphia Regional Port Authority, Procurement Department, at 3460 N. Delaware Avenue, 2nd Floor, Philadelphia, PA 19134 until **2:00 P.M., Thursday, December 1, 2016**

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I. INTRODUCTION

A. NOTICE

The information contained in and provided for this request for proposals (“RFP”) is provided for background purposes only. While every effort has been made to ensure the accuracy of the information contained in this RFP, it is not, and shall not be construed to be or constitute, a representation, warranty or guaranty by the Philadelphia Regional Port Authority (“PRPA”) regarding the content, completeness, or accuracy of such information, or the qualifications or expertise of the individual(s) or firm(s) providing or preparing such information. Each Offeror shall rely solely on its own inspections, investigation, confirmation and analysis of (I) the site, (II) the information contained in or delivered pursuant to this RFP and (III) any other information that such Offeror deems necessary or prudent in evaluating and analyzing the Project.

This RFP is not a legally binding document, but an invitation to submit proposals on the terms and conditions described in this RFP. In no event shall PRPA be responsible for any costs, expenses or fees incurred by or on behalf of the Offeror in connection with this RFP. The Offeror shall be solely responsible for all such costs, expenses and fees.

PRPA reserves the right at any time prior to award, to modify the schedule and scope of this solicitation process, to terminate the RFP process, and to reject or not consider all or any part of any proposal submitted in response to this RFP for any reason or no reason. Further, after review of the proposals, PRPA reserves the right to request additional or clarifying information from any or all parties that submit proposals in response to this RFP.

B. BACKGROUND

The Philadelphia Regional Port Authority (PRPA) is an independent agency of the Commonwealth of Pennsylvania responsible for the management, maintenance, promotion, and development of port facilities along the Delaware River.

Its principal goals are to enhance waterborne commerce, promote economic growth, and create jobs. The Authority was created for the purpose of acquiring, holding, developing, constructing, improving, maintaining, managing, operating, financing, equipping, repairing, leasing or subleasing, and owning port facilities, port-related projects within the Pennsylvania, Delaware River Port-district. The port-district includes the area along Delaware River in Philadelphia, Bucks and Delaware Counties.

The Authority has the power to acquire, purchase, hold, lease, transfer, and dispose of property; to borrow money and issue notes, bonds, and other evidence of indebtedness; and to service the payment of such bonds by pledge of its revenues, rentals, and receipts.

The PRPA was created in 1990 when the former Philadelphia Port Corporation approached the Commonwealth of Pennsylvania for major financial support. The Commonwealth agreed to provide this support and this resulted in the creation of the Philadelphia Regional Port Authority. It immediately replaced the Philadelphia Port Corporation.

Along with creating PRPA, the state purchased all publicly owned port facilities from the City of Philadelphia, charging PRPA with the mission of managing and maintaining them.

The Authority has no taxing power and no power to pledge the credit or taxing power of the Commonwealth. The Authority is, therefore, reliant on the Commonwealth for funding beyond received revenues, rentals, and receipts. Typically, funding from the state beyond the operational receipts has been necessary for facility maintenance and capital improvements

The Philadelphia Regional Port Authority's facilities are highly diversified and handle containers, break-bulk, project cargo, and liquid bulk. The port includes specialized facilities for forest products and for perishable cargo.

Pier 84

2401 S. Columbus Boulevard
Philadelphia, PA 19148

Pier 84 was constructed around 1920 and comprises 13.9 acres of terminal area, with two slip berths of 855 feet. The specialized cargo at this pier is cocoa beans, which are stored in super sacks, and other cocoa products. The pier 84 shed is 500,000 of dry storage. The minimum water depth required for both slip berths is 32' relative to mean low water.

C. OBJECTIVE AND PROJECT DESCRIPTION

The objective of the proposal is to solicit for construction management and inspection of the Pier 84 Outshore Refurbishment Project. The successful Offeror will take over as the Owner's representative upon receipt of a notice to proceed.

The project consists of refurbishing the out-shore end of Pier 84 per the construction specifications and drawings. See attached bid documents for the construction bid work and associated drawings

The consultant shall perform all work to provide continuous construction and inspection services through a staff which shall have expertise in the noted activities and commensurate with the level of difficulty of the project.

The consultant shall monitor the construction for substantial conformance in accordance with the plans and specifications of the project.

The consultant shall handle duties including:

- checking for compliance with bid drawings and specifications
- answering RFI's
- certification of materials and equipment, and reviewing submittals
- confirmation of testing of materials as required,
- review of all load and verification testing of micropiles
- coordination of work with the tenant and the PRPA field representative and other adjacent contractors and utility companies,
- provide daily inspections by team with all proper certifications

- preparation of required reports and records,
- review of contractor invoices
- coordination of information for change orders

The consultant shall review and monitor the contractor's work schedule and use this to track the progress of activities on the project as well as to monitor completion of work and requests for payment.

The consultant shall provide the adequate level of inspectors for all construction work. The expected work hours are M-F, 8-hr work day. The duration of the project is estimated to be 18 months.

D. DELIVERABLES FOR CONSTRUCTION DOCUMENTS

- RFI submittal and response delivery.
- Daily Inspection Reports
- Final Inspection Report
- Approval of as-built drawings
- Attendance and minute taking at all progress meetings.

II. REQUEST FOR PROPOSALS - PROCESS

A. EVALUATION AND SELECTION CRITERIA

The selection criteria for a OFFEROR submitting in response to this RFP include a combination of the following:

- Understanding of the scope of work, purpose, and needs of the PRPA under this RFP.
- OFFEROR's expertise – relevant experience of the firms with contracts of a similar in nature, proposed subcontractors and individuals assigned to the project.
- Interview of the proposed OFFEROR.
- Diversity Requirement.

Offerors will be ranked in accordance with the criteria identified above. The response to this RFP will be the basis for review and with the selected Offeror. The highest ranked OFFEROR will be asked to submit a pricing proposal. After successful negotiations have been reached, the selected Offeror and the PRPA will enter into an agreement in substantially the form and content of the agreement attached to this RFP as **Appendix A** ("Professional Services Contract"). The selected Offeror must provide evidence to PRPA that it has the capability to complete the Project and that it will perform the project in accordance with the proposal submitted in response to this RFP.

B. SUBMISSION DEADLINE:

Proposals are due at the offices of the Philadelphia Regional Port Authority by **Thursday, December 1, 2016, at 2:00 p.m.**

Seven (7) copies of the proposal should be submitted to:

Kate Bailey
 Director of Procurement
 Philadelphia Regional Port
 Authority 3460 N. Delaware
 Avenue Philadelphia, PA 19134

C. SITE TOUR

Will be offered upon request.

D. QUESTIONS ABOUT RFP

All questions or comments regarding this RFP must be submitted **in written form** to: Procurement via email at procurement@philaport.com

Other forms of electronic communication, and telephone inquiries will not be accepted. All questions submitted to PRPA and the corresponding responses will be put on the PRPA website in the form of an addendum. The deadline for submitting questions to PRPA will be **Thursday, November 17, 2016 at 12:00 p.m.** Questions submitted after this date will not receive a response. **Addenda should be acknowledged by immediately faxing the acknowledgment page to (215) 426-6800.**

III. SUBMISSION REQUIREMENTS

Proposals must contain all of the following elements to be considered complete. PRPA reserves the right to reject, or not consider, all or part of any proposal submitted in response to this RFP for any reason whatsoever at any time prior to the full execution Agreement with the selected Offeror. PRPA further reserves the right to request additional or clarifying information from Offerors. Submissions are limited to twenty pages.

A. PROPOSAL FORMAT

Offerors are to provide sufficient information for the Authority to evaluate the proposals to determine responsiveness and ability to meet the specifications for the Project. The Proposal submitted should not exceed 20 pages in length, resumes and appendices excluded. At a minimum, the following sections should contain:

Section I. Proposal Certification & Legal Disclosures: The Proposal Certification attached hereto as **Appendix B** shall be completely filled and executed.

Also, indicate whether there are any convictions or criminal proceedings within the last 10 years or any outstanding judgments, claims, arbitration proceedings or suits against your firm and whether your firm has been debarred by any governmental authority within the last 10 years. If so, provide the caption and venue of the matter, along with identifying case number and description. Your response should not indicate that another individual or entity be contacted nor should it state that the requested information is not applicable to this

project.

Section II. Capabilities Narrative/Acknowledgement of Addenda

- Scope of work to address project
- Copy of addenda acknowledgements.

Section III. Relevant Experience: List similar projects completed in size and scope and the professionals involved who are part of the team on your Proposal, using the following format for each project. This section should not exceed eight (8) pages including the references.

- a) Owner, address, contact name and telephone number
- b) Project description
- c) Project Cost
- d) Date of completion
- e) Whether the project was completed on time. (If not, please explain)
- f) Whether the project was completed within the quoted amount. (If no, please explain)
- g) Indicate whether your firm was a prime Offeror or a subconsultant
- h) The roles performed by the individual professionals

Section IV. Proposed Project Team:

Describe the technical capabilities and qualifications of the individual professionals on the firm/team with respect to the required areas of expertise.

List key members of the project team. Provide curriculum vitae for each key member. Provide organizational chart. Outline prime contractors, subcontractors and outside resources to include: the legal name, point of contact, title of point of contact, address and phone number along with relevant experience to perform work being contracted.

Provide a listing of the service areas the Offeror will perform with its own organization, and such other information as may be required by the Contract Documents.

Section V. Responsiveness: The OFFEROR shall demonstrate in their proposal the ability of their team to provide services to the PRPA on a quick turnaround basis. The OFFEROR shall indicate the proximity of their offices to then PRPA facilities, including the distribution of their staffing in the various disciplines.

Section VI. Diversity: It is the intent and goal of the PRPA that the Selected Offeror ensures diversity in all aspects of the Project. PRPA encourages cooperation with, and utilization of, certified Minority, Women, LGBT, Veteran, and Service Disabled (collectively, "Disadvantaged Business Enterprises" or "DBE") in all phases of the Proposals received in response to this RFP.

Proposals must include a plan for incorporating DBEs into the proposed Project as part of

your proposal, including target goals for participation in the format set forth in **Appendix C**.

In addition to target goals your firm proposes, you should indicate names of prospective DBE firms. **Dollar amounts should not be listed.**

B. SUBMISSION OF PROPOSALS

Unless otherwise specified, all Proposals must be submitted in the format specified in this RFP. All blank spaces in the Proposal shall be filled in correctly where indicated for each and every item for which a description is given, and the Offeror must state the prices (which should be typed or written in ink, in words and numbers) for which the proposes to do each part of the Project contemplated, and the total amount for all the parts included in any or all of the combinations of the Project. In case of any discrepancy, the written words shall be considered as being correct.

Proposals shall be signed by a duly authorized representative capable of executing a contract on behalf of the Offeror. If the Proposal is made by an individual, the complete post office address should be given in addition to the individual's signature. If made by a partnership, the complete post office address of each partner of the partnership (limited and/or general, as applicable) must be given. If made by a corporation, the Proposal must be signed by the President or a Vice President and the Secretary or Treasurer of the corporation; otherwise, the signing individual's authority to execute such papers shall accompany the Proposal.

A Proposal which is incomplete or conditional or which contains additions or deductions not called for, or irregularities of any kind, including alterations or erasures, may be rejected by the Authority as an informal Proposal. Although the Authority reserves the right to waive technical defects or irregularities in a Proposal, a Proposal which is not accompanied by the security, as provided in Section 8 herein, may be rejected by the Authority.

Proposals shall be broken down into two (2) parts.

Part I shall consist of the following five (5) sections:

Section I Proposal Submission Certification & Legal Disclosures

Section II. Proposed Statement of Work

Section III. Relevant Experience

Section IV. Proposed Project Team

Section V. Responsiveness

****** Part II shall be submitted in a separate sealed envelope – Please submit only TWO (2) Copies of Part II**

Part II shall consist of the following section:

Section VI. Diversity Requirements

Proposals shall be tabbed clearly identifying each section. References to financial terms in any section other than the Part III submission shall be grounds for rejection of the proposal as being

non-responsive.

C. PROPOSAL DEPOSIT

Proposal Deposit is waived.

D. DELIVERY OF PROPOSALS

It is the responsibility of the Offeror to ensure that the Offeror's Proposal is received by the Authority prior to the time scheduled for the opening of Proposals. No Proposal shall be considered if it arrives after the time set for the opening of Proposals. Each Proposal will be submitted in three sealed envelopes, one for each part (Sections I-V, Section VI, and Section VII), clearly identifying which section is contained therein and shall be sealed in another envelope. If forwarded by mail, the envelope shall be addressed to the Procurement Department, Proposal Submission, 3460 North Delaware Avenue, Philadelphia, PA 19134, preferably by registered mail. If forwarded by hand-delivery, the Proposal shall be delivered at the offices of the Authority at 3460 North Delaware Avenue, Philadelphia, PA 19134 prior to the time stated in the "Notice to Contractors". The three sealed envelopes containing the two parts of the proposal shall be enclosed in a sealed envelope and marked plainly on the outside with the number and title of the RFP and notation as to the Proposal number and description, Proposal opening date and time. If the Proposal envelope is to be enclosed in another envelope for the purpose of express-type delivery, the exterior envelope shall be clearly marked as a Proposal and the Proposal date, title and number shall be shown on the exterior envelope.

E. MODIFICATION OF PROPOSALS

Proposals may be modified by written notice by an Offeror by its authorized representative prior to the exact hour and date set for the opening of Proposals. If an authorized representative submits a modified Proposal on behalf of an Offeror, written documentation substantiating that the authorized representative is authorized to make the modified Proposal and that the modified Proposal is submitted on the Offeror's behalf must be provided with the modified Proposal. A modification of the Proposal shall also state that it is in compliance with this RFP.

F. WITHDRAWAL OF PROPOSALS

An Offeror may withdraw the Proposal by its authorized representative and any security therefor after receipt by the Authority, provided that the Offeror makes a request therefor in writing and the request is received by the Authority prior to the time fixed for the opening of Proposals.

IV. EVALUATION AND AWARD OF PROPOSALS

A. EVALUATION AND DISCUSSION OF PROPOSALS

After the Proposals are opened and reviewed, the Authority may conduct discussions with one or more responsible Offerors which submitted Proposals that are determined by the Authority in its sole discretion to be reasonably susceptible of being selected for award on the basis of the best interests of the Authority. The discussions may be conducted for the purpose of clarification to assume full understanding of and responsiveness to the solicitation requirements and for the

purpose of obtaining best and final offers.

If the Authority chooses not to conduct discussions, the submitted Proposals shall become the best and final offers. A best and final offer can be modified or withdrawn any time prior to the deadline for its submission in the same manner as if it were a Proposal.

B. COLLUSIVE PROPOSALS WILL BE REJECTED

The Proposals of any Offeror or Offeror who engage in collusive bidding shall be rejected. Any Offeror who submits more than one Proposal in such manner as to make it appear that the Proposals submitted are on a competitive basis from different parties shall be considered a collusive bidder. The Authority may reject the Proposals of any collusive bidder upon Proposal openings. Nothing in this Section shall prevent an Offeror from superseding a Proposal by a subsequent Proposal delivered prior to the opening of Proposals which expressly revokes the previous Proposal.

C. AWARD OF CONTRACT

Negotiations will be held with one or more of the firms submitting Proposals that are determined by the Authority in its sole discretion to be reasonably susceptible of being selected for award on the basis of the best interests of the Authority. To begin the negotiation, the Part III submission for the highest ranked OFFEROR will be reviewed. Hourly rates of compensation on the attached Summary of Rates Sheet (Section V.D) must be submitted for all classifications for which the OFFEROR and all subconsultants would request reimbursement for the categories of personnel listed on the Summary Rate Sheet. Offeror shall also list any other classifications of employee which can be anticipated to be required for this work, including the hourly rates.

The direct labor cost for each of the OFFEROR's personnel assigned to the work shall be computed and billed as the number of hours spent engaged in the task multiplied by the hourly wage rate for each individual (not to exceed the rates for personnel categories listed above).

Indicate the job classifications (exactly as they are to appear on monthly invoices) of all personnel who are expected to participate in the task along with the corresponding hourly wage rate.

PRPA will allow expenses incurred by the OFFEROR and subconsultants in direct connection with each task as follows:

- a) Direct expenses of transportation (except daily commutation), long distance communications and, if necessary, fees paid for securing permits and approvals.
- b) Direct expenses of reproduction, postage and handling of drawings, specifications, and other documents.
- c) Direct expenses associated with the renting of equipment for inspection and testing. Also, the direct expenses associated with laboratory testing of materials.
- d) Reimbursement will not be made for daily commutation nor any, subsistence or housing costs, if incurred.

A maximum markup of 10% on external expenses will be permitted to be billed.

All insurance, including Railroad Liability Insurance and/or Pollution Liability Insurance (as required) shall be maintained by the OFFEROR at no cost to the PRPA.

The top ranked OFFEROR will have their labor rates evaluated, and negotiation of any/all rates may occur. If negotiations fail to proceed to an award of a contract, the negotiations will be terminated and PRPA will then begin negotiations with the next highest ranked responsive firm. This process will continue until award is made. The PRPA reserves the right to reject all proposals that are submitted, cancel the project, and or rebid for these services.

D. EXECUTION OF THE CONTRACT

Promptly after the completion of negotiations, the contract may be awarded by PRPA's board, and the Professional Services Contract shall be executed by the Authority and the successful Offeror. As the Authority is an independent agency of the Commonwealth, for the purposes and within the meaning of the Act of October 15, 1980 (P.L. 950, No. 164), known as the Commonwealth Attorneys Act, all Contracts must be approved as to form and legality by the Office of the Attorney General.

Any Offeror not lawfully released from the submitted Proposal, who refuses to execute a contract in accordance with the submitted Proposal shall be liable to the Authority for its damages, and, if security has been deposited with the Proposal as liquidated damages, the amount of the security.

By executing the Professional Services Contract, the Offeror represents that the Offeror has (i) examined the RFP thoroughly, (ii) visited the Site to become familiar with local conditions that may in any manner affect the cost, progress or performance of the Project, (iii) become familiar with Federal, Commonwealth and City laws, ordinances, rules and regulations that may in any manner effect cost, progress or performance of the Project, (iv) studied and carefully correlated the Offeror's observations with the Contract Documents, (v) received all information and documents necessary to allow the Offeror to perform all of the work required under the Contract Documents, and (vi) reviewed and acknowledged the requirements of the Philadelphia Regional Port Authority Act (55 Pa. C.S.A., § 697.1 *et seq.*). The Offeror shall not at any time after the execution of the Contract make any claims whatsoever alleging insufficient data or incorrectly assumed conditions, nor shall the Offeror claim any misunderstanding with regard to the nature, conditions, or character of the work to be done under the Project.

E. CONTRACT SURETY

This section intentionally deleted.

F. PROTESTS IN CONNECTION WITH THE SOLICITATION OR AWARD OF A CONTRACT

- An actual or prospective Offeror who is aggrieved in the connection with the solicitation or award of a contract must file a protest with the Executive Director of the Authority in writing within the period of time provided in the Commonwealth Procurement Code, 62 Pa.C.S. §1711.1.
- Upon receipt of a timely protest and until the time has elapsed for the Offeror to

file an action in Commonwealth Court, the Authority shall not proceed further with the solicitation or with the award of the Contract unless and until the appropriate official within PRPA makes a written determination that the protest is clearly without merit or that award of the Contract without delay is necessary to protect substantial interests of the Authority.

- If the protest is not resolved by mutual agreement, the appropriate official within PRPA shall promptly, but in no event later than sixty (60) calendar days from the filing of the protest, issue a decision in writing stating the reason for the action taken and notifying the Offeror of their right to file an action in the Commonwealth Court within fourteen (15) calendar days from the mailing date of the decision.
- No action may be commenced in Commonwealth Court in connection with the solicitation or award of a Contract unless the Offeror has exhausted the remedies set forth in this section.

APPENDIX A

PROFESSIONAL SERVICES CONTRACT

07/13/2016

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (the "Agreement") is entered into this ____ day of _____, 201__ by and between PHILADELPHIA REGIONAL PORT AUTHORITY, a body corporate and politic and an independent agency of the Commonwealth of Pennsylvania (the "Authority"), and _____, a _____ ("Provider"). All references herein to Provider also constitute reference to all affiliates, employees, agents, and contractors of Provider. The Authority and Provider shall be together referred to as the "Parties."

WITNESSETH

WHEREAS, the Authority desires to _____ ("Project"); and

WHEREAS, through the issuance by the Authority of a Request for Proposals for _____ Services (the "RFP"), a copy of which is attached hereto as Exhibit A, and the proposal by Provider to the RFP (the "Proposal"), a copy of which is attached hereto as Exhibit B, the Authority has determined that Provider possesses the professional skills and technical expertise to assist the Authority by providing the requisite _____ services (the "Services") set forth herein; and

WHEREAS, Provider has agreed to provide the requisite Services at the rates and on the terms and conditions as set forth herein; and

WHEREAS, the Authority therefore desires to retain Provider to perform the Services and assume the responsibilities, duties, and obligations provided herein and work in concert with the Authority, and with others as the Authority may direct in connection with the Project, all on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the Parties hereto, intending to be legally bound hereby, do hereby covenant and agree for themselves, their successors and assigns, as follows:

1. Services.

A. Generally. Provider shall perform the Services in the manner as identified in this Agreement and in accordance with the RFP and Proposal.

B. Term. This Agreement shall be effective on _____, 201__, without regard to the date or dates that this Agreement is executed by the parties. The duration of this Agreement shall be _____ (____) [days/months/years] ("Term"), subject to (1) the Authority's option to extend the Term on a month-to-month basis with advance written notice to Provider, (2) the mutual agreement of the Parties to amend this Agreement and extend the Term thereof, and (3) the Authority's right to terminate this Agreement in accordance with Article 8 of this Agreement.

- C. Oversight. Provider shall, at all times, be subject to the oversight of the Authority and its officials and is accountable to the Authority for the performance of all obligations and responsibilities under this Agreement and applicable laws.
- D. Public Project. Provider acknowledges that the Project is a matter of significant public importance subject to input and review by many funding and regulatory entities. Successful completion of the Project may require, among other things, in addition to interaction with the Authority, a variety of meetings with and presentations to legislative and other funding agencies, civic associations, and regulatory authorities at all levels of government, including but not limited to the Commonwealth of Pennsylvania. As part of its Services hereunder, Provider shall provide information for and participate to an agreed upon or otherwise reasonable extent in all such meetings, presentations and other activities as necessary or desirable.
- E. Document Hierarchy. This Agreement and the documents attached hereto or referenced herein constitute the contract between the Parties. In the event of conflicts or discrepancies among the contract documents, interpretations will be based on the following priorities with the highest being #1 descending to the last number listed:
 - 1. Amendments to this Agreement
 - 2. This Agreement
 - 3. Integrity Terms (Exhibit D)
 - 3. Rates of Compensation (Exhibit C)
 - 4. Additional Requirements (Exhibit E)
 - 5. The RFP (Exhibit A)
 - 6. The Proposal (Exhibit B)

2. Compensation to Provider.

- A. In consideration of the performance of the Services under this Agreement, the Authority shall pay Provider its fees in accordance with the rates set forth as Exhibit C.
- B. On a monthly or otherwise agreed upon, periodic basis, Provider shall submit to the Authority an itemization and description of the Services performed, expenses incurred, hours worked, and the dates and locations where the Services were provided ("Invoice"). Invoices shall be sent to the Accounts Payable Department of the Authority at the following address: _____
_____.
- C. On condition that Provider has performed its Services in accordance with this Agreement, the Authority shall pay Provider for such Services within forty-five (45) days from the date of receipt by the Authority of Provider's Invoice.

- D. To the extent that Provider has performed its Services in an inadequate, improper, or otherwise insufficient manner, the Authority may withhold funds sufficient to secure the sufficient performance of the services that are in question or otherwise to compensate the Authority for the failure to perform the services sufficiently.
- E. Provider is not entitled to receive any compensation, commissions, or benefits other than those expressly provided in this Agreement.
- F. Provider shall be responsible for payment of all federal, state, and local taxes arising out of Service Provider's performance of the Services for the Authority pursuant to this Agreement
- G. Provider agrees that its fees and reimbursable expenses paid shall not exceed the total of _____ (\$ _____) without the Authority's prior written authorization.
- H. Notwithstanding any other payment provisions of this Agreement, the Authority reserves the right to withhold payments for Provider's failure to perform as agreed. Provider may cure its failure to perform within twenty (20) days of its receipt of the Authority's rejection notice, in which case the Authority shall promptly pay Provider the balance owed.

3. Provider's Representations and Warranties

- A. Provider has the power and authority to enter into and perform this Agreement.
- B. This Agreement, when executed and delivered, shall be a valid and binding obligation of Provider, enforceable in accordance with its terms.
- C. The Services will be performed with due diligence in a timely, competent, and professional manner and in accordance with the highest professional standards.
- D. All incidental work product, supplies, and materials provided in connection with the performance of the Services will be good and merchantable, free from any defects, and fit for the purposes for which they are intended to be used by the Authority.
- E. Provider shall keep in strictest confidence all information acquired in connection with this Agreement that the Authority designates as confidential or proprietary.
- F. Provider shall fully obey and comply with all laws, ordinances, and regulations which are or shall become applicable to the Services performed under this Agreement.
- G. Provider ensures that the Services will be performed by individuals with

appropriate licensing and certification.

- H. Provider agrees that it neither has nor will acquire any public or private interest, direct or indirect, which conflicts in any manner with the performance or obligations under this Agreement
- I. Provider agrees not to discriminate against any employee, applicant for employment, independent contractor, or any other person because of race, color, religious creed, ancestry, national origin, age, or sex. Provider agrees to take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, or sex. Such affirmative action shall include, but is not limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training.
- J. Provider agrees to fulfill the obligations undertaken in compliance with the Authority's Diversity Inclusion Policy (the "Policy"), by engaging qualified Disadvantaged Business Enterprises (DBEs) as defined in the Authority's Diversity Inclusion Plan (Construction)(the "Plan"). The Authority and Provider agree to utilize the Plan as a guide in the fulfillment of Provider's obligations.

4. The Authority's Obligations.

- A. The Authority shall provide all information and documents reasonably necessary for the performance of the Services and administration of this Agreement, shall provide timely payment of invoices, and shall provide reasonable cooperation to Provider during its performance.

5. Independent Contractor Relationship.

- A. The Authority and Provider agree that Provider shall provide the Services as an independent professional consultant and independent contractor and not as an employee or agent of the Authority.

6. Provider Integrity.

- A. Provider shall comply with the integrity terms attached hereto as Exhibit D.

7. Indemnification and Insurance.

- A. Indemnification. Provider shall indemnify, defend, and hold harmless the Authority and the Commonwealth of Pennsylvania, and their officers, employees, and agents, from and against any and all losses, costs (including litigation costs and counsel fees), claims, suits, actions, damages, liability, and expenses in

connection with loss of life, bodily injury, personal injury, or damage to tangible property to the extent occasioned wholly or in part by Provider's act or omission or the act or omission of Provider's agents, contractors (including sub-contractors and suppliers), officers, employees, or servants pursuant to this Contract.

- B. Insurance. Provider shall, at its sole cost and expense, procure and maintain in full force and effect, covering the performance of Provider's Services required under this Agreement, the types of insurance specified in this Section 7.B. The insurance required by this Section 7.B shall be procured from an insurer or insurers that are acceptable to the Authority and admitted to do the business of insurance in the Commonwealth of Pennsylvania, with an A.M. Best rating of no less than A-/VIII. With the exception of Professional Liability, the insurance required by this Section 7.B, shall be written on an "occurrence" basis. In no event shall work be performed pursuant to this Agreement until the required insurance has been secured and evidence thereof furnished to the Authority as required herein. If Provider fails to obtain or maintain the required insurance, the Authority shall have the right to treat such failure as a material breach of this Agreement and to exercise all appropriate rights and remedies, including but not limited to the right to purchase appropriate replacement coverage and charge Provider for the cost thereof. The insurance policies required by this Section 7.B shall provide for at least thirty (30) calendar days' prior written notice to be given to the Authority in the event coverage is materially changed, cancelled or non-renewed.

The Authority and the Commonwealth of Pennsylvania, their officers, employees, and agents are to be named as additional insureds on Provider's General Liability and Automobile Liability insurance policies. In addition, those policies shall include a provision stating that the coverage afforded to all additional insureds shall be primary and non-contributory with any other insurance available to such additional insureds.

The amount of Insurance required by this Section 7.B is as follows:

Workers Compensation and Employers Liability:

Workers Compensation: Statutory limits.

Employers Liability: \$500,000 each accident - bodily injury by accident

\$500,000 each employee - bodily injury by disease

\$500,000 policy limit - bodily injury by disease.

Other States' coverage and Pennsylvania endorsement to be included.

General Liability Insurance:

Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury and property damage;
\$1,000,000 personal and advertising injury;
\$2,000,000 general aggregate.

Coverage to include, but not be limited to: Premises operations; blanket contractual liability; personal injury liability (employee exclusion deleted); products and completed operations; independent contractors; employees and volunteers as additional insureds; cross liability; and broad form property damage (including completed operations).

Automobile Liability:

Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury and property damage liability.

Coverage to include but not be limited to: Owned, non-owned and hired vehicles.

Professional Liability Insurance:

Limit of Liability: \$1,000,000 with a deductible or self-insured retention not to exceed \$25,000.

Coverage to include but not be limited to: Errors and omissions. If written on a claims-made basis, coverage for occurrences happening during the performance of the Services required under this Agreement shall be maintained in full force and effect under the insurance policy or an extended reporting period ("tail") for no less than two (2) years after completion of the Services.

Certificates of insurance evidencing the required coverages shall be submitted to the Authority's Insurance Department at least ten (10) calendar days before work is begun. This ten (10) calendar day requirement for advance documentation of coverage may be waived in situations where such waiver will benefit the Authority, but under no circumstances shall Provider begin work without providing the required evidence of insurance. The Authority reserves the right to require Provider to furnish certified copies of the original policies of all insurance required under this Agreement at any time upon ten (10) calendar days' prior written notice to Provider.

It is expressly understood and agreed that the furnishing of insurance pursuant to this Section 7.B shall in no way limit the liability or responsibilities and obligations of Provider as provided in this Agreement.

8. Termination; Suspension.

A. If, through any cause, Provider fails to fulfill, on a timely basis and in a proper

manner, its obligations under this Agreement, then the Authority shall give Provider seven (7) days to correct the deficiency. If Provider fails to correct the deficiency to the satisfaction of the Authority, then the Authority may terminate this Agreement by giving written notice to Provider, setting forth the reasons for and the effective date of such termination.

- B. Notwithstanding any contrary provision in this Agreement, including but not limited to the right of the Authority to terminate Provider for fault under Paragraph 8.A., this Agreement may be terminated for the convenience of the Authority upon seven (7) days written notice. If the Authority elects to terminate this Agreement under this Paragraph 8.B., the Authority shall be entitled only to payment for satisfactory Services rendered under the Agreement up to the time of termination.
- C. The Authority may, in writing, order Provider to suspend all or any part of Provider's Services hereunder for the convenience of the Authority. In the event of suspension under this Section 8.C, an equitable adjustment in Provider's compensation shall be made for the increase, if any, in the cost of Provider's performance of this Agreement caused by such suspension, and this Agreement shall be modified in writing accordingly.

9. Additional Requirements.

- A. Additional Requirements related to this agreement are attached hereto as Exhibit E.

10. General Provisions.

- A. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania.
- B. Preservation of Records. Provider shall maintain and preserve for a period extending until five (5) years after the Services were completed or after this Agreement was terminated, whichever occurs first, all records and documents prepared or used in connection with Provider's Services rendered to the Authority. Provider shall provide copies of all such records and documents to the Authority upon the Authority's request. Prior to the proposed destruction of any such records and documents, Provider shall provide written notice to the Authority and provide the Authority with the opportunity to request that some or all of the records and documents be transferred to the Authority's designated representatives.
- C. Intellectual Property Rights. The Parties expressly agree that all work product is "work made for hire" under the copyright laws of the United States and other countries, and shall be considered work prepared by an employee within the scope of his or her employment or work specially ordered or commissioned for use as a

contribution to a collective work. To the extent that any work product is not deemed "work made for hire", Provider hereby assigns all copyrights and intellectual property rights to the Authority. All work product shall become the sole property of the Authority when produced, and may be used by the Authority in any manner during or after the Term of this Agreement.

- D. Limitations on Liability. No individual official, employee, or agent of either Party shall have any direct or indirect personal liability under or in connection with this Agreement. Provider acknowledges that the Authority, as an agency of the Commonwealth of Pennsylvania, enjoys sovereign immunity as provided in Section 18 of the Philadelphia Regional Port Authority Act, Pa. Stat. Ann. tit. 55, § 697.18.
- E. Binding Effect/Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns. Provider shall not assign, transfer, or subcontract this Agreement or any of its rights or obligations without the prior written consent of the Authority. The Authority may assign its rights under this Agreement to any governmental or other entity which undertakes the Project and in the event of such assignment, Provider hereby consents to the assignment at the same price and on the same terms.
- F. Conflict Among Terms. Wherever there is any conflict between the terms of this Agreement and the terms of any other document which is incorporated herein, the terms of this Agreement shall govern.
- G. Approval of Governing Body. The contractual understanding set forth in this written Agreement is valid only if the contract is approved by the governing body of the Authority.
- H. Disputes. The Authority and Provider will attempt to resolve all claims and disputes between them arising out of this Agreement. Should Provider not be satisfied with the Authority's decision regarding a claim or dispute between the Parties, Provider may request an administrative determination. The Authority shall, within thirty (30) days of a demand for an administrative determination, or on its own initiative and in lieu of such demand, designate an individual to serve as "Claims Administrator". The Authority and Provider will attend administrative conferences at the call of the Claims Administrator. The Authority and Provider will cooperate fully in the administrative investigation conducted by the Claims Administrator at the administrative conference and at such other times as the Claims Administrator shall determine, and shall furnish documents and other information required by the Claims Administrator. Within thirty (30) days of the completion of the administrative investigation, the Claims Administrator will render a decision and recommendation to the Authority and Provider. The decision and the recommendation will be binding on neither party and will not be admissible in any proceeding. Unless the decision and recommendation is accepted by both the Authority and Provider, Provider may submit its claim to the

Board of Claims in accordance with the Commonwealth of Pennsylvania Procurement Code, 62 Pa.C.S.A. § 1721 et seq. For the purposes of the Code and this Agreement, the claim shall be conclusively presumed to have accrued when the decision and recommendation of the Claims Administrator is issued. During the pendency of the claim or dispute, Provider shall continue to carry out its responsibilities under this Agreement and the Authority shall continue to make all undisputed payments due and owing to Provider.

- I. Audit of Records of Provider. The Authority, the City of Philadelphia, the Commonwealth of Pennsylvania and any governmental agency or authority having jurisdiction, or any designated agent or employee of any thereof, shall have the unlimited right to inspect, make copies of and audit the books, records and accounts of Provider, or of any subproviders engaged by Provider, pertaining to the work performed hereunder, from time to time for a period extending to three (3) years after completion of Provider's work hereunder, including without limitation inspection and audit of records maintained as to hours worked by Provider's personnel, components of direct personnel expense in respect of such personnel and other similar matters. Provider shall maintain complete and accurate accounting and corporate records with respect to its performance hereunder and that of its employees and agents. Provider shall cause language affording similar rights to be inserted in each contract which Provider enters into with any person who will perform part or all of the Services called for hereunder.
- J. Notices. All notices required by this Contract or other communications to either party must be in writing and shall be delivered by one of the following methods of delivery:
- i. personal service, in which event the notice shall be deemed to have been given upon actual receipt;
 - ii. Federal Express, or another nationally recognized overnight courier service, in which event the notice shall be deemed to have been given on the day the notice is deposited with the courier service
 - iii. United States Mail, first class, postage prepaid, in which event the notice shall be deemed to have been given deposited with the United States Postal Service.
 - iv. The addresses of the parties shall be:
 1. The Authority

Philadelphia Regional Port Authority
3460 N. Delaware Avenue, 2nd Floor
Philadelphia Pennsylvania 19134
Attn: Gregory V. Iannarelli, Chief Counsel

2. Provider

- K. Entire Agreement/Amendment. This Agreement constitutes the entire agreement between the Parties. No amendment or modification altering its scope or terms shall have any force or effect unless it is in writing and signed by both Parties.

[Remainder of Page Intentionally Left Blank]

07/13/2016

IN WITNESS WHEREOF, the Authority and Provider have caused this Agreement to be executed the day and year first above written.

THE AUTHORITY:

PHILADELPHIA REGIONAL PORT
AUTHORITY

By: _____
Name:
Title: Executive Director

Approved as to Legality and Form:

Approved as to Budgetary Appropriateness & Fiscal
Responsibility:

PHILADELPHIA REGIONAL PORT
AUTHORITY

PHILADELPHIA REGIONAL PORT
AUTHORITY

By: _____
Name: Gregory V. Iannarelli
Title: Chief Counsel

By: _____
Name: Edward Henderson
Title: Director of Finance & Capital Funding

OFFICE OF THE GENERAL COUNCIL

OFFICE OF THE BUDGET

By: _____
Name: Denise J. Smyler
Title: General Counsel

By: _____
Name: Anna Maria Kiehl
Title: Comptroller

PROVIDER:

By: _____
Name:
Title:

EXHIBIT A

[Insert full title of RFP]

EXHIBIT B

[Insert full title of Proposal]

EXHIBIT C

[Rates of Compensation]

EXHIBIT D

Provider Integrity Terms

1. The following terms used in this Exhibit D shall be defined and understood as follows:

"Confidential" means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Authority;

"Consent" means written permission by a duly authorized member or employee of the Authority, provided that where the material facts have been disclosed, in writing, by prequalification or contractual terms, the Authority shall be deemed to have consented by virtue of execution of this Contract;

"Contract" has the same meaning as "Agreement";

"Financial Interest" means ownership of more than a five (5) percent interest in any business; or holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management; and

"Gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

2. Provider shall maintain professional standards of integrity in the performance of the Services required hereunder and shall take no action in violation of federal or state laws, regulations, or other requirements that govern contracting with the Commonwealth of Pennsylvania or the authority.
3. Provider shall not disclose to others any confidential information gained by virtue of this Contract.
4. Provider shall not, in connection with this Contract or any other contract with the Authority or the Commonwealth of Pennsylvania, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any member or employee of the Authority or the Commonwealth of Pennsylvania.
5. Provider shall not, in connection with this Contract or any other contract with the Authority or the Commonwealth of Pennsylvania, directly or indirectly, offer, give or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any member or employee of the Authority or the Commonwealth of Pennsylvania.
6. Except with the consent of the Authority or the Commonwealth of Pennsylvania, neither Provider nor anyone in privity with Provider shall accept or agree to accept from, or give or

agree to give to, any person, any gratuity from any person in connection with the performance of the Services required hereunder except as provided herein.

7. Except with the consent of the Authority, Provider shall not have a financial interest in any other Provider, sub-provider, or supplier providing services, labor, or material for the Services required hereunder.
8. Provider, upon being informed that any violation of this Exhibit D has occurred or may occur, shall immediately notify the Authority in writing.
9. Provider, by execution of this Contract and by the submission of any bills or invoices for payment pursuant hereto, certifies and represents that Provider has not violated any of these provisions.
10. Provider shall, upon request of the Authority or the Office of State Inspector General, reasonably and promptly make available to the Authority and that office and its representatives, for inspection and copying, all business and financial records of Provider of, concerning, and referring to this Contract or which are otherwise relevant to the enforcement of this Exhibit D
11. Should a violation of this Exhibit D occur, the Authority may terminate this Contract and any other contract with Provider, claim liquidated damages in an amount equal to the value of anything received in breach of this Exhibit D, claim damages for all expenses incurred in obtaining another Provider to complete performance under this Contract, and debar and suspend Provider from doing business with the Authority. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Authority and/or the Commonwealth of Pennsylvania may have under law, statute, regulation or otherwise.

EXHIBIT E

[Additional Requirements]

APPENDIX B
PROPOSAL SUBMISSION CERTIFICATION

03/28/16

PROPOSAL CERTIFICATION:

PROJECT NO.

PROJECT DESCRIPTION:

OFFEROR INFORMATION:

Legal Name & Street Address:

Telephone Number:

How long the company has been in business: _____

List prior names and address that the company may have had: _____

Indicate the corporate structure of the firm (corporation, partnership, etc.): _____

Identify the work your organization routinely conducts: _____

I, _____, being a duly authorized representative of the above-named Offeror, am authorized to execute this certification on their behalf and hereby submit the proposal and certify the following:

- A. The Offeror certifies to the best of its knowledge, information and belief that:
- i. it is not currently suspended, debarred or under voluntary agreement not to submit bids by any federal, state or local government agency or authority.
 - ii. it possesses all required business, contracting and trade licenses required to perform the work.
 - iii. it possesses all the technical qualifications and resources, including equipment, personnel and financial resources, to perform the work.
 - iv. the information provided in connection with this proposal on the MBE/WBE Subcontractor and Supplier Solicitation and Commitment Form is accurate and the mandatory information on form is filled out completely.

B. The Offeror certifies the following responses to the questions posed:

1. Has the Offeror been suspended and/or debarred or voluntarily agreed not to bid as a result of an action by any federal, state or local government agency or authority in the past three years?

Yes No

2. Has any officer, director, owner or managerial employee of the Offeror been convicted of a felony relating to construction, maintenance, service or repair contracting industries?

Yes No

3. Has the Offeror defaulted on any project in the past three years?

Yes No

4. Has the Offeror had any type of business, contracting or trade license revoked or suspended by any government agency or authority in the past three (3) years?

Yes No

5. Has the Offeror been found in violation of any other law relating to its contracting business, including, but not limited to antitrust laws, licensing laws, tax laws, wage or hour laws, environmental or safety* laws, by a final decision of a court or government agency authority in the past three (3) years?

Yes No

*For purposes of this question, violations of safety laws may be limited to serious or willful safety violations.

6. Has the Offeror been the subject of voluntary or involuntary bankruptcy proceedings at any time in the past three years?

Yes No

C. Offeror's Vendor Data Management Unit Number is: _____

D. The Offeror has:

- i. examined the RFP thoroughly;
- ii. visited the Site or performed other due diligence to become familiar with local conditions that may in any manner affect the cost, progress or performance of the Project;
- iii. become familiar with Federal, Commonwealth and City laws, ordinances, rules and regulations that may in any manner effect cost, progress or performance of the Project;
- iv. studied and carefully correlated the Offeror's observations with the Contract Documents;

- v. received all information and documents necessary to allow the Offeror to perform all of the work required under the Contract Documents; and
- vi. It will have sufficient workforce that possess Transportation Worker Identification Credentials to gain access and properly perform the work by the date of Notice to Proceed with the work.
- vii. reviewed and acknowledged the requirements of the Philadelphia Regional Port Authority Act (55 Pa. C.S.A., § 697.1 et seq.).

IV. Acknowledgment and Disclaimers Section:

It is understood that the right is reserved by the Philadelphia Regional Port Authority to reject any or all proposals and to waive any informalities in the proposals.

Submission of false or misleading information or statements in connection with this Certification shall render the Consultant ineligible to perform work for the Authority and/or shall be considered a material breach of any contract entered and entitle the Authority to all applicable remedies available at law or in equity.

Failure to submit or fully complete this Certification shall render the Contractor ineligible for the prospective contract.

Further, in the event Consultant fails to gain entry or cannot perform work due to noncompliance, the Authority reserves the right to provide escorts to be billed to the Consultant with no increase in cost under the contract or terminate the contract for failure to perform.

Offeror is familiar with the local conditions affecting the cost of the work to be performed in the scope of work and to comply with the specifications;

Offeror is familiar with the contract documents;

The attached Litigation disclosures are true and accurate;

That the Offeror will enter into and execute a contract based upon this proposal without delay upon notice of award of contract; and

That the proposal is valid for ninety (90) days from the date of opening of the proposals.

This day of , 2016:

If the proposal is signed by an individual or a partnership, the following information and signature is required:

Signature of Owner or Partner

Type or Print Name and Title

If the proposal is submitted by a corporation, the form must be dated and signed by (a) President or Vice President and (b) Secretary, Assistant Secretary or Treasurer. Also the corporate seal must be affixed. If this form is not so signed, a duly certified corporate resolution authorizing form of execution used must be attached to proposal.

Signature of President or Vice President

Signature of Secretary, Assistant
Secretary, Treasurer or Assistant Treasurer

Type or Print Name and Title

Type or Print Name and Title

APPENDIX C
DIVERSITY AND INCLUSION PLAN

Diversity and Inclusion Policy Minimum Participation Levels

PRPA has established the following minimum participation levels (MPLs) for Disadvantaged Business Enterprises in accordance with a policy on diversity inclusion, set forth in Part X of the Contracting, Procurement, and Leasing Policies and Procedures, revised as of November 2015, the provisions of which are incorporated as though fully set forth herein.

Categories:

- Minority Owned Business Enterprise
- Women Owned Business Enterprise
- Service-Disabled Veteran or Veteran Owned Business Enterprise
- LGBT Owned Business Enterprise

To be credited with minimum participation, the Prime Bidder must provide a minimum of **five percent (5%)** participation in any category selected, **must select at least two (2) categories**, and must have a total participation of **twenty percent (20%)**.

A PRIME CONTRACTOR WHO IS CERTIFIED IN ONE OF THE ABOVE MENTIONED CATEGORIES CANNOT APPLY THEIR OWN CERTIFICATION TO THE COMMITMENT PERCENTAGES.

ACCEPTED CERTIFICATIONS

- Unified Certification Program (UCP) *
(Every state has its own Unified Certification Program. This links to the Pennsylvania Unified Certification Program.)
- Woman's Business Enterprise National Council (WBENC)
- National Minority Supplier Development Council (NMSDC)
- United States Small Business Administration (SBA) 8(a) Program *
- Vets First Verification Program at vetbiz.gov
- National Gay & Lesbian Chamber of Commerce (NGLCC)

ATTACHMENTS

(to be provided via an Addendum)