



Philadelphia Regional Port Authority
3460 North Delaware Ave. 2nd Floor
Philadelphia, PA 19134

March 18, 2019

To: All Bidders

From: Kate Bailey
Director of Procurement

Re: **ADDENDUM NO. 3**
PROJECT 19-025.S
RFP for On-Call Container Crane Engineering Services

This Addendum No. 3 is issued to:

1. Issue a revised Appendix "B" to include the General Conditions for Service Contracts (attached)
2. Clarify that RFP Document Page 7, B., Part I, Section II should be titled "Capabilities Narrative/Acknowledgment of Addenda"
3. Clarify that the Project Number and Title is 19-025.S - RFP for On-Call Container Crane Engineering Services

All other terms and conditions remain unchanged.

Bidders shall acknowledge receipt of this addendum by immediately faxing a copy of the completed acknowledgment to Kate Bailey at 215-426-6800 or email procurement@philaport.com

ACKNOWLEDGMENT OF RECEIPT OF ADDENDUM NO. 3
RFP for On-Call Container Crane Services
Project 19-025.S

Date _____

By _____

Company _____

Telephone _____

Fax _____

Email _____

Appendix "B"



<u>SERVICE AGREEMENT</u>
DATE:
PROJECT #:
EXPIRATION DATE:
CONTRACT #:

PHILADELPHIA REGIONAL PORT AUTHORITY

3460 N. Delaware Avenue, 2nd Floor
Philadelphia Pennsylvania 19134

Attn: _____
("PhilaPort"), a body corporate and politic and an independent agency of the Commonwealth of Pennsylvania,

And

Attn: _____
(the "Contractor"), a _____, a _____ [insert form of business organization] organized under the laws of the _____.

PhilaPort and Contractor hereby agree that the Contractor will perform the requisite services as forth in this written understanding (the "Contract"):·

Services: On-Call _____. The Contractor shall perform the services for PhilaPort as requested in PhilaPort's Request-for-Proposal attached as Exhibit A and Contractor's Proposal attached as Exhibit B, both of which are incorporated herein by reference as part of the Contract and constitute a statement of work that describes and defines the services to be performed ("Services") The Contractor shall perform the Services hereunder using its best efforts and in accordance with the standards of its occupation, industry or profession. On-call services will be authorized in the form of a written task order issued by PhilaPort. Only work authorized in writing in advance by Task Order will be eligible for payment under the terms of this Contract.

Contract Amount: The Contractor shall provide a fee schedule setting forth the fees it will charge for services rendered and expenses incurred for representation of the Authority. When the Contractor's fee schedule is changed, the Contractor will provide to the Authority a revised fee schedule. The fee schedule and any revised fee schedules are incorporated into this Contract as Exhibit "B" and attached hereto.

Term of Contract: This Contract shall be effective on the date that the last of the signatures have been affixed to this Agreement ("Effective Date"). The duration of this Agreement shall be _____ () days ("Term") from the Effective Date.

Terms and Conditions: The terms and conditions are set forth in the General Conditions in Exhibit "A" attached hereto and incorporated herein by reference as part of the Contract.

IN WITNESS WHEREOF, and intending to be legally bound hereby, PhilaPort and the Contractor have caused this Agreement to be executed on the dates hereafter set forth.

PHILADELPHIA REGIONAL PORT
PHILAPORT ("PHILAPORT")

By: _____
Name: Jeff Theobald
Title: CEO & Executive Director
Date: _____

Approved as to Legality and Form:

Approved as to Budgetary Appropriateness &
Fiscal
Responsibility:

PHILADELPHIA REGIONAL PORT
PHILAPORT

PHILADELPHIA REGIONAL PORT
PHILAPORT

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

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

OFFICE OF ATTORNEY GENERAL

OFFICE OF THE BUDGET

By: _____
Name: _____
Title: Chief Deputy Attorney General
Date: _____

By: _____
Name: Anna Maria Kiehl
Title: Comptroller
Date: _____

[CONTRACTOR (where entity is a business corporation)]

Name of Corporation

Attest:

Signature of Secretary, Assistant Secretary
Treasurer, Assistant Treasurer or
other authorized representative**

(Print Name of Representative)

By:

Signature of President, Vice President or
other authorized representative*

(Print Name of Representative)

** If a corporate representative other than the President or a Vice President of the Corporation signs this Contract on its behalf, then attach a valid corporate resolution or other appropriate proof, dated prior to or as of the date of signature, evidencing PhilaPort to execute this Contract on behalf of the Corporation.*

*** If a representative other than the Secretary, an Assistant Secretary, the Treasurer or an Assistant Treasurer attests to the signature of the corporate representative, then attach a valid corporate resolution or other appropriate proof, dated prior to or as of the date of signature, evidencing PhilaPort to attest to the execution of this Contract on behalf of the Corporation.*

[Note: When agreements are signed with limited liability companies or non-corporate contractors, the form of signatures will be changed to the form appropriate to the form of business organization being used.]

**GENERAL CONDITIONS
FOR SERVICE CONTRACTS**

Section I. Definitions:

The following terms and expressions used in the Contract Documents shall be defined and understood as follows:

“City” shall mean the City of Philadelphia.

“Commonwealth” shall mean the Commonwealth of Pennsylvania.

“Contract” shall mean the written agreement and understanding between PhilaPort and the Contractor.

“Contract Documents” shall mean the documents described in the Contract.

“Contractor” shall mean the party of the second part to the Contract that is providing Services.

“Contract Sum” shall mean the amount stated in the Contract for the payment to the Contractor.

“Contract Officer” The Contract Officer shall be the Procurement Director prior to the execution of the Contract. Subsequent to the execution of the Contract, the Contract Officer shall be the individual designated by PhilaPort. The term, “Contract Officer” shall have the same meaning as “Contracting Officer” in the Commonwealth Procurement Code.

“Date of Completion” shall mean the last day of the term specified in Article III of the Contract for the completion of the Work.

“Day(s)” shall mean the number of days, excluding the first and including the last day of such period. Whenever the last day of any such period shall fall on a Saturday or Sunday, or on any day made a legal holiday by the laws of the Commonwealth or the United States, such day shall be omitted from the computation.

“Contract Officer” shall mean either the Director of Contract Officering of PhilaPort, or any successor or successors duly appointed in writing by the Director of Contract Officering, or any deputy or substitute who may be so designated, in writing, by the Executive Director or through a duly authorized representative within the scope of the particular duties assigned such representative.

“Executive Director” shall mean the Executive Director of PhilaPort, or any deputy or substitute who may be so designated in writing by the Executive Director.

“PhilaPort” shall mean the Philadelphia Regional Port Authority.

“Plans” in the context of Services provided by an engineer or other design professional shall mean the general plans and designs accompanying the Specifications and such supplementary drawings as may be furnished from time to time.

“Professional” shall mean the Contract Officer unless designated otherwise.

“Project” shall mean the undertaking being assumed by the Contractor.

“Site” shall mean the location where the Services will be performed.

“Special Conditions” shall mean special conditions, if any, which modify the General Conditions.

“Specifications” in the context of Services provided by an engineer or other design professional shall mean the written documentation accompanying the Plans, which set forth the Work to be performed and the methods to be used to perform the Work. In the context of other Services, the term shall mean the requirements set forth in the Contract Documents.

“Subcontractor” shall mean persons, firms, or corporations having a direct contract with the Contractor to provide a portion of the Services specified, subject to the right of PhilaPort to approve or disapprove the entity proposed.

“Task Order” shall mean a directive, using the Form attached as an Exhibit to the Agreement, directing Contractor to provide specific Services, with pricing and performance duration specified.

“Working Day” shall mean a calendar day except Saturday, Sunday, and any day made a legal holiday by the laws of the Commonwealth or the United States.

Section II. Payment:

A. The Contractor shall invoice PhilaPort on a monthly basis for actual time expended at the rates listed in the Proposal or other Contract Document, with sufficient detail to be rendered acceptable to PhilaPort. Provided the Contractor has performed its services in accordance with this Contract, PhilaPort shall pay the Contractor for such services within forty-five (45) days from the date of receipt by PhilaPort of the Contractor’s invoice. All invoices are to be sent to the Accounts Payable Department of PhilaPort at the address listed on the Contract.

Section III. Disputes:

A. All claims, disputes and other matters in question between the parties to this Contract arising out of or relating to this Contract or the breach thereof, shall be decided by arbitration before the Board of Claims (See 62 Pa.C.S.A. § 1721 et seq.), in the manner and under the terms and conditions provided therein.

Section IV. Nondiscrimination:

A. In accordance with Pa. Stat. Ann. tit. 55, § 697.16, the nondiscrimination and contract compliance plans used by PhilaPort are required to be the same as those used by the

Commonwealth of Pennsylvania's Department of General Services.

B. During the term of this Contract, the Contractor agrees to comply with the following "nondiscrimination clause":

The Contractor shall not 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. The Contractor shall 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. The Contractor shall post in conspicuous places, available to employees, agents, applicants for employment, and other persons, a notice to be provided by PhilaPort setting forth the provisions of this nondiscrimination clause.

C. The Contractor shall in advertisements or requests for employment placed by it or on its behalf state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age, or sex;

D. The Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by the Contractor;

E. It shall be no defense to a finding of noncompliance with the Contract Compliance Regulations the "Contract Compliance Regulations" (16 Pa. Code Chapter 49) issued by the Pennsylvania Human Relations Commission (the "Commission") or with the terms and provisions of this nondiscrimination clause that the Contractor had delegated some of its employment practices to any union, training program, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the Contractor was not on notice of the third-party discrimination or made a good faith effort to correct such discrimination, such factor shall be considered in mitigation in determining appropriate sanctions;

F. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that the Contractor will be unable to meet its obligations under the Contract Compliance Regulations or pursuant to the terms and provisions of this nondiscrimination clause, the Contractor shall then employ and fill vacancies through other nondiscriminatory employment procedures;

G. The Contractor shall comply with the Contract Compliance Regulations, which are incorporated herein by reference as if fully set forth herein, and with all laws prohibiting discrimination in hiring or employment opportunities. In the event of the Contractor's noncompliance with the terms and provisions of this nondiscrimination clause or with any such laws, the Contractor may, after hearing and adjudication, be terminated or suspended, in whole or

in part, and the Contractor may be declared temporarily ineligible for other contracts with agencies of the Commonwealth of Pennsylvania, and such other sanctions may be imposed and remedies invoked as provided by the Contract Compliance Regulations;

H. The Contractor shall furnish to PhilaPort and the Commission, all necessary employment documents and records and shall permit access by PhilaPort and the Commission to the Contractor's books, records, and accounts, for purposes of investigation to ascertain compliance with the provisions of the Contract Compliance Regulations. If the Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by PhilaPort or the Commission;

J. The Contractor shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employees;

K. The Contractor shall include the provisions of this nondiscrimination clause in every subcontract, so that such provisions will be binding upon each subcontractor;

L. The terms used in this nondiscrimination clause shall have the same meanings as used in the Contract Compliance Regulations; and

M. The Contractor's obligations under this nondiscrimination clause are limited to the Contractor's facilities within the Commonwealth of Pennsylvania.

Section V. Contract Extension, Termination and Suspension:

A. For the convenience of PhilaPort, this Contract may be terminated for any reason by PhilaPort after seven (7) calendar days' written notice to the Contractor. In the event of termination under this Section V.(A.), the Contractor shall be paid that portion of the payment due to the Contractor hereunder which represents the compensation for services performed to the date of termination and all termination expenses. Termination expenses are defined as those expenses arising prior, during, and subsequent to termination that are directly attributable to the termination.

B. This Contract may be terminated by either party hereto upon seven (7) calendar days' written notice should the other party fail substantially to perform in accordance with the terms hereof through no fault of the party initiating the termination. In the event of termination under this Section V.(B.), the Contractor shall be paid that portion of the payment due to the Contractor hereunder which represents the compensation for services performed to the date of termination.

C. PhilaPort may, in writing, order the Contractor to suspend all or any part of the Contractor's services hereunder for the convenience of PhilaPort. In the event of suspension under this Section V.(C.), notwithstanding Article II of this Contract, an equitable adjustment in the Contractor's compensation shall be made for the increase, if any, in the cost of the Contractor's performance of this Contract caused by such suspension, and this Contract shall be modified in writing accordingly.

D. PhilaPort shall have the right to exercise options to extend that have been included in the

original Request for Proposal.

E. PhilaPort shall have the right in the exercise of its sole discretion to extend this contract on a month-to-month basis, pending a solicitation of a new contract for the Services.

Section VI. Contractor Integrity:

A. The following terms used in this Section VI 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 PhilaPort;

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

"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.

B. The Contractor 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 PhilaPort.

C. The Contractor shall not disclose to others any confidential information gained by virtue of this Contract.

D. The Contractor shall not, in connection with this Contract or any other contract with PhilaPort 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 PhilaPort or the Commonwealth of Pennsylvania.

E. The Contractor shall not, in connection with this Contract or any other contract with PhilaPort 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 PhilaPort or the Commonwealth of Pennsylvania.

F. Except with the consent of PhilaPort or the Commonwealth of Pennsylvania, neither the

Contractor nor anyone in privity with the Contractor 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.

G. Except with the consent of PhilaPort, the Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material for the services required hereunder.

H. The Contractor, upon being informed that any violation of this Section VI has occurred or may occur, shall immediately notify PhilaPort in writing.

I. The Contractor, by execution of this Contract and by the submission of any bills or invoices for payment pursuant hereto, certifies and represents that the Contractor has not violated any of these provisions.

J. The Contractor shall, upon request of PhilaPort or the Office of State Inspector General, reasonably and promptly make available to PhilaPort and that office and its representatives, for inspection and copying, all business and financial records of the Contractor of, concerning, and referring to this Contract or which are otherwise relevant to the enforcement of this Section VI.

K. For a violation of this Section VI, PhilaPort may terminate this Contract and any other contract with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of this Section VI, claim damages for all expenses incurred in obtaining another contractor to complete performance under this Contract, and debar and suspend the Contractor from doing business with PhilaPort. 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 PhilaPort and/or the Commonwealth of Pennsylvania may have under law, statute, regulation or otherwise.

Section VII. Task Orders

A. Generally. Contractor may not proceed with the furnishing of any Services without the issuance of a Task Order covering those Services and directing that work be commenced. The standard Task Order Form appears as an Exhibit to the Agreement. PhilaPort reserves the right to issue Task Orders to Contractor for design and consulting services in accordance with its best interests. Each Task Order will set forth the details specific to the requirements for each Project or phase of a Project. Task Orders shall include: (1) name of the Service being provided; (2) Task Order authorization number; (3) description of the Services to be performed, (4) the fees to be paid and the schedule of reimbursables; (5) the budget for the Task being assigned; (6) the identification of the key personnel performing services; (7) the schedule of hourly rates or lump-sum compensation; (8) the schedule for completion of services; and (9) additional requirements.

Section VIII. Insurance:

A. The Contractor shall, at its sole cost and expense, procure and maintain in full force and effect, covering the performance of the Services required under this Contract, the types of insurance specified in this Section. The insurance required shall be procured from reputable insurers,

acceptable to PhilaPort, with an A.M. Best rating of B+ or better, and authorized to do business in the Commonwealth of Pennsylvania. The insurance required by this Section VIII, except the Contractor Liability Insurance, shall be written on an "occurrence" basis and not a "claims-made" basis. In no event shall Services be provided until the required evidence of insurance has been furnished to PhilaPort. If the Contractor fails to obtain or maintain the required insurance, PhilaPort shall have the right to treat such failure as a material breach of this Contract and to exercise all appropriate rights and remedies. The insurance policies required by this Section VIII shall provide for at least thirty (30) calendar days' prior written notice to be given to PhilaPort in the event coverage is materially changed, cancelled or non-renewed.

B. PhilaPort and the Commonwealth of Pennsylvania, their officers, employees, and agents are to be named as additional insureds on the General Liability Insurance policy of the Contractor. In addition, an endorsement to the insurance policy is required stating that the coverage afforded PhilaPort and the Commonwealth of Pennsylvania and their officers, employees, and agents as additional insureds will be primary to any coverage available to the Contractor.

C. The amount of Insurance required by this Section VIII is as follows:

1. 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.

2. 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: 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).

3. Automobile Liability:

Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury and property damage liability. Coverage: Owner, non-owned and hired vehicles.

4. Professional Liability Insurance (for design professionals, legal counsel and other professionals):

Limit of Liability: \$1,000,000 with a deductible not to exceed \$25,000.

Coverage: Errors and omissions. 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 "tail" coverage for a period of at least two (2) years after completion of the services.

D. Certificates of insurance evidencing the required coverages shall be submitted to PhilaPort's Insurance Department at least ten (10) calendar days before Services are begun. This ten (10) calendar day requirement for advance documentation of coverage may be waived in situations where such waiver will benefit PhilaPort. PhilaPort reserves the right to require the Contractor to furnish certified copies of the original policies of all insurance required under this Contract at any time upon ten (10) calendar days' prior written notice to the Contractor.

E. It is expressly understood and agreed that the furnishing of insurance pursuant to this Section shall in no way limit the liability or responsibilities and obligations of the Contractor as provided in this Contract.

Section IX. Indemnification:

A. The Contractor shall indemnify, defend, and hold harmless PhilaPort 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 the Contractor's act or omission or the act or omission of the Contractor's agents, contractors (including subcontractors and suppliers), officers, employees, or servants pursuant to this Contract.

Section X. Ownership of Documents:

A. All reports, plans, specifications, computer files, field data, notes and other documents and instruments prepared by the Contractor in accordance with this Contract are and shall remain the property of PhilaPort. Any use or reuse by the Contractor without the express written approval of PhilaPort will be at the Contractors sole risk and without liability or legal exposure to PhilaPort.

Section XI. Commonwealth Audit:

A. The funds for this Contract are subject to audit by PhilaPort and other agencies and representatives of the Commonwealth of Pennsylvania in accordance with applicable laws and regulations. PhilaPort reserves the right to perform additional audits of a financial/compliance, economy/efficiency or program results nature, if deemed necessary.

B. The Contractor will submit to PhilaPort copies of any audits conducted by or at the request of the Contractor that involve the funds for this Contract.

Section XII. Sovereign Immunity:

A. The Contractor acknowledges that PhilaPort, as an agency of the Commonwealth of Pennsylvania, enjoys sovereign immunity as provided in Section 18 of the Philadelphia Regional Port PhilaPort Act, Pa. Stat. Ann. tit. 55, § 697.18.

Section XIII. Notices:

A. All notices required by this Contract or other communications to either party by the other shall be deemed given when made in writing and received or when made in writing and deposited in the United States Mail, first class, postage prepaid, addressed as on the Service Contract.

Section XIV. Entire Contract:

A. This Contract constitutes the entire agreement and understanding between the parties with respect to the subject matter contained herein and supersedes all prior agreements, understandings, negotiations, and discussions, both written and oral, among the parties hereto with respect to the subject matter hereof.

Section XV. Hierarchy:

A. If any provision of one Contract Document is in conflict with another, the conflict shall be resolved by giving precedence to the document first listed:

1. Agreement
2. General Conditions
3. Special Conditions (if any)
4. Task Order
5. RFP
6. Proposal

Section XVI. Severability:

A. The provisions of this Contract are severable and if any of its provisions become or are found to be unlawful, the decision so holding shall not be construed to impair or affect the enforceability of the remaining provisions of this Contract or any part hereof.

Section XVII. Amendments:

A. This Contract may not be amended or modified in any way except by a written instrument executed by each of the parties hereto. In the event that an amendment to this Contract is desired by either party, the party wishing to amend must present the proposed amendment in writing to the other party. If the amendment is accepted by the other party, a true copy of the amendment shall be signed by the parties' official representatives and shall be attached as a rider to this Contract.

Section XVIII. Section Headings:

A. The section headings contained in this Contract are for reference purposes only and shall not affect the meaning or interpretation of any provisions of this Contract.

Section XIX. Other Laws:

A. Any and all other applicable state or federal laws not specifically mentioned in this Contract shall also apply to the parties.

Section XX. Governing Law:

A. This Contract shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania, without giving effect to the principles of conflicts of law thereof.

Section XXI. Diversity and Inclusion:

Contractor acknowledges that the diversity and inclusion commitments submitted as part of its proposal were an integral part of its submission. Contractor commits to satisfy the requirements of at least twenty (20) percent of diversity and inclusion based upon the total amount of work authorized by task order. Contractor agrees that each of the Identified Contractors will be paid at least five (5) percent of the Proposal Amount and that the combined total amount paid to the Identified Contractors shall be at least twenty (20) percent of the Proposal Amount.

Contractor and agrees that PhilaPort will incur substantial damages to its efforts to promote diversity and inclusion. If the commitment levels for the Work are not achieved by the end of the term in accordance with the requirements of this Agreement, PhilaPort shall be entitled to liquidated damages. The parties agree that it would be extremely difficult and impractical under the presently known and anticipated facts and circumstances to ascertain and fix actual damages that PhilaPort would incur under these circumstances, and, accordingly, the parties agree that PhilaPort's remedy shall be to recover from the Contractor as liquidated damages, and not as a penalty the dollar value of the participation committed multiplied by 0.10. The liquidated damages identified in this Section relate solely to Contractor's failure to meet its commitment of diversity and inclusion in accordance with the requirements of this Agreement and not to other breaches, actions or omissions of the Contractor. The liquidated damages identified in this Section shall not limit PhilaPort's remedies for other breaches, actions, or omissions of the Contractor, including termination for failure to complete the Work.

Exhibit A

Request for Proposals

Exhibit B

Proposal