



Buffalo & Fort Erie Public Bridge Authority

Request for Proposals for
SUBSURFACE UTILITY MAPPING SERVICES

*1 Peace Bridge Plaza
Buffalo, NY 14213*

Date Issued: December 14, 2020

Submission Deadline: January 29, 2021 at 1:00 PM

BUFFALO & FORT ERIE PUBLIC BRIDGE AUTHORITY

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I. INTRODUCTION

A. General Information

The Buffalo and Fort Erie Public Bridge Authority (“the Authority”) is seeking a firm to perform subsurface utility mapping services at the Peace Bridge in Buffalo, NY (“the Consultant”).

Firms intending to respond to this RFP should notify Danielle McCaffery, Operations Coordinator, via email at dem@peacebridge.com. This will ensure that they receive all updates and/or amendments/addendums to this RFP.

B. Restrictions on Communications

From the date this RFP is issued until the contract award has been announced, no Respondent initiated contact with any Authority official shall be permitted regarding this RFP, other than written inquiries, as described in Section C herein. Contact includes, but is not limited to, any lobbying of individuals considered to have any influence over proposal evaluation and selection. Violation of this provision will be grounds for immediate disqualification.

C. Inquiries and Communications

All inquiries and communications relating to this RFP or the Project must be made by e-mail to:

Buffalo & Fort Erie Public Bridge Authority
Attention: Danielle McCaffery, Operations Coordinator
dem@peacebridge.com

There will be an opportunity available for submission of written questions. All questions or requests for clarification regarding this RFP must come from one point of contact per company no later than January 19, 2021 at 1:00 PM. Questions or requests for clarification received after such time and date will not receive a response from the Authority. All questions and answers will be posted online at www.peacebridge.com/rfp, and distributed via e-mail to those that provided contact information as requested, by January 22, 2021.

Contact with the Authority or any of its personnel relating to this RFP or the Project other than as stated above may be grounds for disqualification of the Respondent.

D. Responses

Respondents must submit their Responses to this RFP to the Authority no later than January 29, 2021 at 1:00 PM in the manner, and with the documents and information, specified in Part V of this RFP to the following address:

Buffalo & Fort Erie Public Bridge Authority
Attention: Danielle McCaffery, Operations Coordinator
1 Peace Bridge Plaza, Buffalo, NY 14213

Respondents are responsible for all postage or courier costs, including cross-border costs, and ensuring its respective Response is received by the Authority at the address above by the time required.

There is no expressed or implied obligation for the Authority to reimburse responding firms for any expenses incurred in preparing qualifications in response to this request.

During the evaluation process, the Authority reserves the right, where it may serve the Authority's best interest, to request additional information or clarifications from proposers or to allow corrections of errors or omissions. At the discretion of the Authority's Selection Committee, Respondents may be requested to make oral presentations as part of the evaluation process.

All Responses become the property of the Authority. The Authority reserves the right to retain all Responses to the RFP submitted, and to use any ideas in a Response regardless of whether or not the applicable Respondent is selected. Submission of a Response indicates acceptance by the Respondent of the conditions contained in this RFP, unless clearly and specifically noted in the Response submitted.

E. Modifications to the RFP

The Authority may modify any part of the RFP prior to the deadline for submission of proposals by issuance of an addendum. Any addendum issued by the Authority will be posted to the Authority website and email notification of such posting will be distributed via e-mail to all firms that provided contact information as requested.

F. Response Requirements

To be considered, a Respondent must submit two (2) hard copies and one (1) electronic copy of the Response to the RFP, which must be received by the Authority as set out in Section D of Part I of this RFP. Responses must satisfy all elements outlined in Part V of this RFP. The Authority reserves the right to reject any or all proposals submitted. Responses submitted will be evaluated by a Selection Committee of the Authority.

G. Currency

All references to dollar amounts or currency in this RFP are references to United States dollars (\$US), unless expressly stated otherwise. All references to dollar amounts or currency in Responses will be deemed to be references to United States dollars, unless expressly stated otherwise.

II. DESCRIPTION OF THE AUTHORITY

A. Buffalo & Fort Erie Public Bridge Authority

The Peace Bridge is owned and operated by the Buffalo and Fort Erie Public Bridge Authority, which is an international compact entity created pursuant to a compact entered into by the State of New York, with the consent of the United States Congress, and by the Government of Canada. The Authority is governed by a ten-member Board consisting of five members from New York State and five members from Canada. The mission of the Authority is to be known as the premier Canada-United States international border crossing, providing excellence in customer service and an effective conduit for trade and tourism.

B. The Peace Bridge Plaza (U.S.)

The Peace Bridge, completed in 1927, carries vehicular and pedestrian traffic across the upper Niagara River between Fort Erie, Ontario, Canada and Buffalo, New York, United States of America. All traffic using the bridge must pass through the Canadian Plaza on the Fort Erie side of the bridge and the U.S. Plaza on the Buffalo side of the bridge, where various customs and immigration processes are performed by respective government agencies.

The U.S. Plaza of the Peace Bridge consists of two (2) inspection buildings, eighteen (18) inspection booths under three (3) canopies, four (4) auto parking lots, one (1) commercial vehicle parking lot, queuing space for autos and commercial vehicles pre-inspection, approach roadways, and a Duty Free store.

See Appendix A for aerial images of the Peace Bridge Plaza (U.S.).

III. SCOPE OF SERVICES

A. Background

The U.S. Plaza is approximately 14 acres in size and has been drastically transformed since it was originally constructed in 1927 with the addition, removal, and renovation of many buildings, canopies, roadways, and other structures. Moreover, the requirements of the plaza from a utilities and technological perspective have evolved throughout the past 90 years, and modifications have been made to accommodate these demands. As such, various underground utilities and pathways have been installed, abandoned, and/or covered over to date, sometimes in small portions under multiple projects.

It is the intent of the Authority to obtain under this contract complete and accurate subsurface utility information regarding existing subsurface utilities on the U.S. Plaza. The results of this study will assist in planning and design activities for future anticipate plaza renovations.

Existing subsurface utility records will be made available to Respondents upon request.

B. General Scope of Services

The Authority requires a firm to perform subsurface utility mapping services at the U.S. Plaza of the Peace Bridge in Buffalo, NY. The project area is identified in Appendix A herein.

The successful firm shall perform services generally as follows:

- Perform records research for existing subsurface utility information
- Coordinate public and private locates for all major utility carriers and obtain results;
- Use visual inspection, electromagnetic pipe and cable locators, GPR, and other applicable surface geophysical methods to survey all exterior horizontal surfaces (concrete, soil, and asphalt) of the U.S. Plaza, including those underneath canopies, to determine the location of all subsurface utilities;
- Determine the nature of all subsurface utilities (i.e., water, gas, electric, phone, fiberoptic, sewer, irrigation) and identify supplier/provider as applicable;
- Verify state of all subsurface utilities (i.e., in-service, out-of-service, active, abandoned);
- Identify size and number of conduits and any empty conduit pathways where applicable;
- Depict (map) all identified utilities, surface utility features, and subsurface features on plan sheets using CAD; and
- Compile a report including, but not limited to, the results of the above investigations and as described in more detail under Section C herein.

The successful firm shall have demonstrable competencies as follows:

- Expertise and equipment to accomplish utility search and trace functions
- Subject matter expert and documented technician training on surface geophysical equipment; personnel qualified by education and experience in surface geophysical methods
- Experience in creating and updating utility maps in AutoCAD
- Familiarity with the American Society of Civil Engineers (ASCE) Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data (38-02).

C. Requirements

1. Survey

The Consultant shall perform the necessary surveys to deliver the scope of services identified in Section B herein. The following is also expected of the survey and data collection process:

- Investigations shall include at a minimum those attributes identified as Quality Level B in the ASCE Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data (38-02).
- Horizontal locations shall be accurate to within 12 inches.
- Vertical locations are not required for all subsurface utilities, however should be provided for those utilities where depths are known.
- The Authority will provide on-site guidance for the Consultant as needed to facilitate access throughout the U.S. Plaza.
- The Authority will, when possible, assist in the identification of expected utility infrastructure.

2. Subsurface Utility Report

The Consultant shall deliver to the Authority upon contract completion a Subsurface Utility Report for the U.S. Plaza. The report shall represent the information collected as per the general scope of services identified in Section B herein and include but not be limited to the following elements:

- Drawings (.pdf and AutoCAD format) detailing the location, nature, and state of all subsurface utilities and conduits on the U.S. Plaza. Note: Baseline CAD files will be made available to the Consultant.
- Aerial satellite image (map) of the plaza with subsurface utilities superimposed
- Drawing legends and markings should follow ASCE Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data (38-02).

All members of the Consultant team, as well as all of the subcontractors and suppliers of any tier which will have a physical site presence to perform any part of the Work are required to undergo a security background review. Individuals failing to obtain the necessary security clearances from CBP will not be allowed access to the Bridge site. Delivery personnel making short term visits to the site for loading/unloading are typically exempt from this requirement. All visitors to the Authority's sites, including site visits in connection with this RFP process, are required to be escorted by the Authority or the Authority's representatives.

IV. TIME REQUIREMENTS

A. Proposal Calendar

The following is a list of key dates up to and including the date proposals are due to be submitted:

Requests for Proposals issued	December 14, 2020
Due date for submission of questions	January 19, 2021 at 1:00 PM
Questions to be answered	January 22, 2021
Due date for Responses	January 29, 2021 at 1:00 PM

B. Expected Notification and Contract Dates

Short-listed firms notified	February 5, 2021
Presentations/interviews of short-listed firms (at Authority discretion)	Week of February 8, 2021
Selected firm notified, contract award	February 12, 2021
Notice to Proceed	February 19, 2021
Substantial Completion	May 31, 2021

The successful consultant must be prepared to commence performance for the services described herein immediately upon notice of award if directed by the Authority.

V. PROPOSAL REQUIREMENTS

A. General Requirements

1. **Inquiries** – Inquiries concerning the request for proposals and the subject of the request for proposals must be made in accordance with Section C of Part I of this RFP. Contact with the Authority or any of its personnel relating to this RFP or the Project other than in accordance with Section C of Part I may be grounds for disqualification of the Respondent.
2. **Addenda: Errors and Omissions** - Respondents discovering any ambiguity, conflict, discrepancy, omission or other error in this RFP, should immediately notify, prior to the due date for proposals, the contact person set forth in Section V.A.1 and advise of such error and request clarification or modification of the document. Modifications to this RFP will be issued by addenda and clarifications will be communicated by written notice to each party that was furnished a RFP.

If a Respondent fails to notify the Authority prior to the due date for Responses, of a known error, or an error that reasonably should have been known, the proposer assumes all risk. If awarded the contract, the Respondent shall not be entitled to additional compensation or time by reason of the error or its late submission.

3. **Submission of Proposals** - The following material is required to be included in all Responses and received by January 29, 2021 at 1:00 PM for a Respondent to be considered:
 - a. Two (2) hard copies and one (1) electronic copy of the Response to include the following:
 - (i) *Title Page* – Title page showing the request for proposals subject; the firm's name; the name, address, and telephone number of the contact person; and the date of the Response.
 - (ii) *Table of Contents*
 - (iii) *Transmittal Letter* – A signed letter of transmittal briefly stating the Respondent's understanding of the work to be completed, the commitment to perform the work, a statement why the firm believes itself to be best qualified to perform the engagement, and a statement that the Response is a firm and irrevocable offer. The transmittal letter should also state the name, telephone number and e-mail address of the official within the firm who will serve as the Authority's primary contact concerning the Response. An unsigned Response will be rejected.
 - (iv) *Non-collusive Response Certification* – The Respondent must provide a signed statement certifying the following:
 - o the Response is genuine and is not made in the interest of, or on behalf of, an undisclosed person, firm or corporation;
 - o that the Respondent has not directly or indirectly induced or solicited any other Respondent to submit a false or sham Response, or decline to submit a Response;
 - o that the Respondent has not sought, by collusion, to obtain any advantage over any other Respondent or over the Authority.

- (v) *Detailed Proposal*– The detailed proposal should follow the order set forth in Section B of Part V of this request for proposals.
- (vi) *Cost Proposal*–The cost proposal should follow the order set forth in Section C of Part V of this request for proposals.
- (vii) Respondents should submit the completed Response in the manner set forth in Section D of Part I of this RFP.

B. Detailed Proposal

1. **General Requirements** – The purpose of the proposal is to demonstrate the qualifications, competence and capacity of the consultant seeking to undertake services in conformity with the requirements of this request for proposals. As such, the substance of proposals will carry more weight than their form or manner of presentation. The proposal should demonstrate the qualifications of the Respondent and of the particular staff to be assigned to this engagement. It should also specify the type of service approach that will meet the request for proposal requirements.

The proposal should address all the points outlined in the request for proposals. The proposal should be prepared simply and economically, providing a straightforward, concise description of the Respondent’s capabilities to satisfy the requirements of the request for proposals. While additional data may be presented, the following subjects, item Nos. 2 through 9, must be included. They represent the criteria against which the proposal will be evaluated. Responses are limited to twenty (20) pages (excluding the title page, table of contents, transmittal letter, non-collusive proposal certification, cost proposal, and requested resumes), prepared as double-sided pages on 8 ½ x 11 inch paper using at least 10 point type with standard margins.

For clarity purposes, the Authority requests that you restate each question, with the answer stated directly below each question.

2. **Independence and Ethical Practices** – The Respondent should provide an affirmative statement that it is independent of and dealing at arm’s length with the Authority, is not in breach of the Authority’s Ethics Policy, and will avoid any actual or perceived conflict of interest. Conflict of interest is defined as a situation in which a person is, or is perceived to be, in a position to benefit more preferentially than in an open market situation. The Authority will provide copies of its Ethics Policy upon request by Respondents.
3. **Disciplinary Actions** – The Respondent should provide information on the circumstances and status of any disciplinary action taken or pending against the Respondent during the past five (5) years with federal or state/provincial regulatory bodies or professional organizations.
4. **Respondent Qualifications and Experience** – The Respondent should include the following information:
 - a. Company name, location of firm headquarters, location of office from which services would be rendered to the Authority.
 - b. Description of the Respondent, including ownership structure, number of partners and employees, number of years in business, and a brief description of the services the firm offers.

- c. List your firm's most significant engagements (maximum of 5) for the last five (5) years that are similar to the engagement described in this request for proposal. Include information on each engagement in the following format:
 - i. Name of client
 - ii. Number of years serving this client
 - iii. Name of personnel in charge of this client
 - iv. Brief description of services provided

From these engagements, provide at least three (3) references containing contact name, address and telephone number

- d. List all anticipated primary sub-consultants proposed for this contract and include a description of the firm and contact information for each.

5. **Distinguishing Features** – The Respondent should identify and describe the most important attributes that distinguish your firm from competing firms, and how those attributes will benefit the Authority.
6. **Value-Added Services** – The Respondent should identify and describe services offered which may add value (i.e., decrease cost, increase efficiency, etc.) to the Authority.
7. **Proposed Approach** – The Respondent should identify their proposed means and methods for obtaining the information identified in the Scope of Services detailed in Section III. At a minimum, the Respondent should address the survey techniques and geophysical methods that will be employed. The Respondent should provide no more than two (2) samples of subsurface utility maps created by the Respondent for previous projects similar to this scope of work.
8. **Identification of Anticipated Potential Problems** – The proposal should identify and describe any anticipated potential problems/challenges in providing the service requested, the firm's approach to resolving these problems and any special assistance that will be requested from the Authority.
9. **Project Schedule** – The Respondent should submit a proposed project schedule to capture the successful completion of all deliverables. The schedule should be broken down by major task and have a milestone at survey completion and at report submission.

C. Cost Proposal

1. **Professional Fees** – The Authority is interested in achieving high quality services at the lowest possible cost.

The Authority will not be responsible for expenses incurred in preparing and submitting the technical proposal or the cost bid. Such costs should not be included in the proposal.

The cost proposal should be contained in a separate, sealed envelope. The first page of the cost bid should include the following information:

- a. Name of Respondent.
- b. Certification that the person signing the Response is entitled to represent the firm, empowered to submit the Response, and authorized to sign a contract with the Authority.

- c. Provide examples of fees that you have charged on recent similar recent contracts.
- d. Describe proposed measures to reduce the costs of services, while maintaining high quality services.
- e. Supply all-inclusive costs for performing the scope of services outlined in Part III of this RFP. Costs should include labour, equipment, travel time, and any other costs associated with the scope of work. Payment will be on a Lump Sum basis and paid in full upon contract completion. No interim payments will be made.

VI. EVALUATION PROCEDURES

A. Review of Responses

The Committee will review qualifications of the Responses. Consultants with unacceptably low technical qualifications will be eliminated from further consideration.

After the qualifications for each Respondent has been established, the cost proposal will be examined.

All qualified Respondents will be afforded equal opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. The Authority encourages minority and women-owned businesses to submit responses to the RFP.

B. Evaluation Criteria

Responses will be evaluated by the Authority's Selection Committee using three sets of criteria. Respondents meeting the mandatory criteria will have their Responses evaluated for both technical qualifications and cost. The following represent the principal selection criteria, which will be considered during the evaluation process.

1. Mandatory Elements

- a. The Respondent is independent and has no conflict of interest with regard to any other work performed by the firm for the Authority.
- b. The Respondent adequately addresses actual and pending disciplinary actions and has a record of quality work.
- c. The Respondent adheres to the instructions in this request for proposal on preparing and submitting the Response.

2. Technical Quality

- a. Expertise and Experience
 - (i) The Respondent's qualifications and past experience and performance on similar engagements.
 - (ii) The Respondent's proposed approach and project schedule for this scope of work.
 - (iii) The Respondent's approach towards identifying and resolving potential problems/challenges in providing the services requested.
 - (iv) The firm's distinguishing and value-added services.

3. Cost Proposal

Fee, while important, will not be the primary factor in the selection of an engineering firm, however it will be considered when evaluating the overall value of the Response. The Authority is not obligated to accept the Respondent with the lowest cost proposal.

C. Oral Presentations

During the evaluation process, the Selection Committee, at their discretion, may request any one or all firms to make oral presentations. Such presentations will provide Respondents with an opportunity to answer any questions that the Selection Committee may have on their Response. Not all Respondents may be asked to make such oral presentations.

D. Final Selection

The Authority will select a Respondent based upon the recommendation of the Authority's Selection Committee.

It is anticipated that a firm will be selected by February 12, 2021. Following notification of the firm selected, it is expected that a contract will be executed between both parties by February 19, 2021.

The Authority reserves the right to enter into negotiations with any Respondent designed best qualified in order to determine satisfactory terms and conditions of a final contract and to end such negotiations, at its discretion, and to designate and commence negotiations with an alternate best qualified Respondent.

In accordance with the policy approved by the Board of Directors of the Authority, the Selection Committee will not conduct debriefing sessions with unsuccessful Respondents.

E. Right to Reject Proposals

Submission of a Response indicates acceptance by the Respondent of the conditions contained in this request for proposal unless clearly and specifically noted in the Response and confirmed in the contract between Authority and the Respondent selected.

As specifically endorsed by the Authority Board of Directors, contact or communications with personnel of the Authority other than as specified in Section B of Part I of this RFP will result in automatic rejection of a proposal.

The Authority may reject Responses from those Respondents who do not attend the scheduled mandatory site meeting.

The Authority reserves the right without prejudice to reject any or all Responses, waive any and all informalities, and the right to disregard all non-conforming or conditional Responses. The Authority reserves the right to accept any Response deemed to be in its best interest even though the Response is not mathematically the lowest price.

VII. FORM OF AGREEMENT

A copy of the Authority's standard agreement is attached as Exhibit A herein. The Authority reserves the right to modify such standard agreement. The Authority will not use a consultant prepared agreement. The successful Respondent will be required to enter into a contract using the Authority's standard agreement. The Respondent is encouraged to review this agreement with their legal counsel before submitting a Response.

VIII. GENERAL TERMS AND CONDITIONS

The following General Terms and Conditions apply throughout this RFP and to the Response. Any change or amendment to the terms and conditions of this RFP are of no effect unless set out in a written Addendum to this RFP issued by the Authority.

A. Applicable Law

This RFP, and any contract, which may subsequently arise from this RFP, shall be governed by the law of the United States of America, as applicable to an international compact entity. The appropriate jurisdiction for any disputes which arise from the RFP or any contract which may arise from this RFP, shall be the United States district Court for the Western District of New York, provided this court has requisite jurisdiction.

The section titles are for convenience only and shall not be construed to affect the meanings of the sections titled.

B. No Obligation to Proceed

Nothing in this RFP obliges the Authority in any way to proceed to award a Contract or proceed with the Project. The Authority may terminate this selection process at any time and proceed with the Project, in whole or in part, in the same or some other manner, including reissuing the same or a different RFP in relation to the Project. This RFP does not constitute an offer to enter, or obligate the Authority to enter, into a contract with any person and is not intended to create any binding contract, often referred to in Canada as Contract "A".

C. Access to Information Legislation

- In fulfilling its public service responsibilities, the Authority adopted a policy and procedure (the "**FOIL/AIA Policy**") for responding to requests for information, including requests made pursuant to the New York or Federal *Freedom of Information Law* ("**FOIL**") and the Canadian *Access to Information Act* ("**AIA**"). While the Authority is not subject to either FOIL or the AIA, the Authority does voluntarily respond to requests for information and gives effect to the principle that the public has a right to know.
- In accordance with the FOIL/AIA Policy, the Authority will make available for public inspection and copy all records except those that the Authority denies access to or portions thereof that:
 - (a) are rendered confidential or privileged or are exempted from disclosure by Federal or state law in the United States or provincial or Federal statutes of Canada;
 - (b) if disclosed, would constitute an unwarranted invasion of personal privacy (including as this concept is given effect in the *Personal Protection Privacy Act* (Canada) and the *Personal Information and Electronic Documents Act* (Canada)) as more particular set out in the FOIL/AIA Policy;
 - (c) if disclosed, would impair present or future contract awards or collective bargaining or negotiations of leases, permits, contracts or other agreements;

- (d) are confidential trade secrets or financial, commercial, scientific or technical information of the Authority or a third party (including a governmental entity) that if disclosed could cause substantial injury to the competitive position of the Authority or such party;
 - (e) are compiled for public safety, law enforcement or official investigatory purposes (internal and external) and which, if disclosed, may affect public safety, interfere with proceedings, or deny or prejudice a right to a fair trial or impartial negotiation, or identify a confidential source or disclose confidential information relating to an audit or a civil, criminal, or internal or external disciplinary investigation;
 - (f) if disclosed, would endanger the life or safety of any person;
 - (g) are in any way related to the security of the Bridge or property associated with federal government functions;
 - (h) if disclosed, would jeopardize the Authority's capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures;
 - (i) are materials of any governmental agency (state, local, municipality, region, public authority) other than statistical or factual tabulations of data, specific instructions given to staff, final approved policies and all external audits where these materials or instructions are not exempted;
 - (j) are photographs, microphotographs, videotape or other recorded images that could impact upon personal privacy;
 - (k) that contains information that was obtained in confidence from the government of a foreign state or institution thereof, an international organization of states or institution thereof, the government of a province, municipality or region or institutions thereof or an aboriginal government (as defined in Nisga'a Final Agreement Act);
 - (l) is subject to a solicitor-client or attorney-client privilege;
 - (m) if disclosed, could affect, impact or be expected to prejudice the competitive position of a government institution (which may include the Authority) or specific business entities with which government institutions (which may include the Authority) deals.
- In submitting any document, information or other record to the Authority, including the Response, each Respondent acknowledges and accepts the FOIL/AIA Policy. Except as expressly set out in this RFP or the FOIL/AIA Policy, all documents, information and other records submitted in response to this RFP will be considered confidential. However, such information or parts thereof may be released pursuant to FOIL/AIA Policy. Respondents are also advised that FOIL/AIA Policy may provide protection for confidential and proprietary business information. Respondents are advised to consult their own legal advisors as to the appropriate way in which confidential or proprietary business information should be marked as such in their Responses.

- Subject to the provisions of the FOIL/AIA Policy, the Authority will use reasonable efforts to safeguard the confidentiality of any information identified by the Respondent as confidential but the Authority shall not be liable in any way whatsoever to any Respondent or Respondent Team Member if such information is disclosed pursuant to the FOIL/AIA Policy.

D. Confidentiality of Information

Respondents will be required to enter into a confidentiality agreement.

E. No Liability - Information

- This RFP may not contain all of the information that a Respondent may need in deciding whether to submit a Response. The Authority accepts no responsibility for any person lacking any information.
- The Authority will not be liable for any information or advice or any errors or omissions that may be contained in this RFP or the data, materials or documents (electronic or otherwise) provided to the Respondents or prospective Respondents in the RFP process or otherwise with respect to the Project.
- The Authority makes no representations or warranties and there are no representations, warranties or conditions, either express or implied, statutory or otherwise, in fact or in law, with respect to the accuracy or completeness of this RFP or the data, materials or other documents. The Authority will not be responsible for any claim whatsoever arising from a Respondent's or prospective Respondent's reliance on or use of this RFP or any such data, materials or other documents which are provided, delivered, made available or required by the Authority.
- Each Respondent and prospective Respondent is responsible for obtaining its own independent legal, financial, engineering, architectural, environmental and other technical or professional advice, and making its own investigations with respect to the Project, this RFP, the RFP process and any data, materials or other documents provided, delivered or made available or required by the Authority or its Representatives. Submission of a Response is deemed to be conclusive evidence that the Respondent has made such investigations and has obtained such advice and that the Respondent is willing to assume and does assume all risks affecting the Project, except as otherwise specifically stated in this RFP.

F. No Liability - RFP Process

The Authority does not, by issuing this RFP or by any communication or documentation made or provided in connection with this RFP, incur any duty of care or contractual obligation to any Person.

G. Rights of the Authority

The Authority may at any time, with or without notice:

- reject and not consider a Response from a Respondent, or disqualify any Respondent where (i) the Respondent or any Respondent Team Member (including any Joint Venture Member if the Respondent is a Joint Venture Respondent) has been disqualified from a procurement process undertaken by the Authority as the result of

any criminal charges related to inappropriate bidding practices or unethical behaviour (ii) there are any outstanding criminal charges related to inappropriate bidding practices or unethical behaviour by a Respondent or a Respondent Team Member or any of their Affiliates in relation to a public or broader public sector tender or procurement in any jurisdiction (iii) there is evidence satisfactory to the Authority that, based on past conduct or behaviour, the Respondent or any or a Respondent Team Member is unsuitable or has conducted themselves improperly or (iv) the Authority determines that the Respondent or any or a Respondent Team Member performance on other contracts is sufficiently poor to jeopardize the completion of the Project;

- consider, in the evaluation of a Response, (i) any dispute involving a Respondent or Respondent Team Member and (ii) any instances of poor performance of a Respondent or Respondent Team Member, or any other unfavourable experiences with any of them, that the Authority has experienced;
- amend the scope or details of the Project, or modify, cancel, amend, supplement, clarify or suspend the whole or any part of the Project, this RFP, the RFP process or any or all stages of the Bid process;
- reissue a Request For Proposals for the Project the same as this RFP or a different request for qualifications document in connection with the Project;
- reject or disqualify all or any Responses or Respondents; and
- waive any material or non-material deficiency or failure to comply with the requirements of this RFP.

H. Ethical Behaviour Confirmation

Without limitation of any other rights of the Authority or the requirements of this RFP, in order to ensure the integrity, openness and transparency of the selection process, the Authority may:

- impose at any time on all Respondents and any Respondent Team Member additional conditions, requirements or measures, with respect to bidding practices or ethical behaviour of a Respondent and any of the members of the Respondent Team; and
- require that any or all Respondents and/or any Respondent Team Member at any time during the proposal process provide the Authority with copies of its internal policies, processes and controls establishing ethical standards for its bidding practices and evidence of compliance by the Respondent and all Respondent Team Members with such policies, processes and controls.

In the event that any Respondent and/or Respondent Team Member:

- fails to comply with any requirement prescribed by the Authority pursuant to this Section H; or
- complies with the Authority's requirement as prescribed in accordance with this Section, but the Authority determines that any Respondent and/or Respondent Team Member has or may have engaged in inappropriate bidding practices or unethical behaviour, the Authority shall have the right, at any time to reject and not consider a Response from a Respondent.

I. Restriction on Communication between Respondents

A Respondent shall not discuss or communicate, directly or indirectly, with any other Respondent, any information whatsoever regarding the preparation of its own Response or the Response of another Respondent. Each Respondent shall prepare and submit its Response independently and without any connection, knowledge, comparison of information, or arrangement, direct or indirect, with any other Respondent. The Respondent shall ensure that its key individuals and members of Respondent Team and their respective representatives and Affiliates comply with this Section I. By submitting a Response, a Respondent on its own behalf and as authorized agent of each Respondent Team Member, key individual and their respective representatives and affiliates represents, warrants and confirms to the Authority that its Response has been prepared and submitted without collusion or fraud, or in violation of any applicable law and in fair competition with prospective Respondents, prospective Respondent Teams, and other Respondents.

J. Verification of Information

The Authority may independently verify any information received in or in respect of any Response pursuant to this RFP. The Authority may disqualify any Respondent who's Response:

- contains any false or misleading information; or
- fails to disclose any information that would, if disclosed, materially adversely affect the Authority's evaluation of such Respondent's Response.

K. Conflicts of Interest

- For the purposes of this RFP, the term "conflict of interest" includes any situation or circumstance which is a conflict of interest under the Authority's Ethics Policy or where a Respondent, a Respondent Team Member, their respective Representatives and affiliates and/or a key individual of a Respondent Team Member, has, could be perceived to have or could possibly acquire:
 - contractual or other obligations to the Authority or any the Authority Party that could or could be seen to have been compromised or impaired as a result of its participation in the RFP process or the Project; or
 - knowledge or information (other than information disclosed by the Authority in the normal course of the RFP process) of strategic and/or material relevance to the RFP process or to the Project that is not available to other Respondents and that could or could be seen to give the Respondent an unfair competitive advantage.
 - commitments, relationships, financial interests or involvement in ongoing litigation:
 - that could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of the Authority's independent judgment;
 - that could or could be seen to compromise, impair, challenge, be in opposition to or be incompatible with the Project or the effective

performance of the Authority's obligations under this RFP or the Contract; or

- in which the Authority is an adverse party.

In determining conflict of interest, the Authority may consider and have regard to relevant codifications in Canada and the US such as, in the US, 23 CFR 1.33 and 23 CFR 636.116 and, in Canada, the Code of Conduct for Procurement (2014-11-27) of Public Works and Government Services Canada.

- Each Respondent must use its best efforts to avoid any conflict of interest in relation to the Project, and comply with any requirements prescribed by the Authority to mitigate or resolve any conflict of interest which may arise.
- Throughout the RFP process, each Respondent shall, and it shall ensure that its Respondent Team Members and their respective representatives and affiliates and key individuals, promptly disclose to the Authority in writing any conflict of interest. At the time of such disclosure, the Respondent shall include any information and documentation that demonstrates appropriate measures have been or will be implemented to mitigate, minimize or eliminate the conflict of interest. The Respondent shall provide such additional information and documentation and implement such additional measures as the Authority may require in connection with the Authority's consideration of the conflict of interest and proposed measures.
- The Authority may waive any and all conflicts of interest. A waiver must be in writing and may be upon such terms and conditions as the Authority requires to ensure that the conflict of interest has been appropriately managed, mitigated and minimized including requiring the Respondent and/or its Respondent Team Members to put into place such policies, procedures, measures and other safeguards as may be required by and be acceptable to the Authority to manage, mitigate and minimize the impact of such conflict of interest.
- The Authority may immediately disqualify a Respondent or require a Respondent to remove and/or replace a Respondent Team Member and/or key individual, if, in each case as determined by the Authority, the Respondent fails to disclose a conflict of interest, the Respondent fails to comply with any requirements prescribed by the Authority to mitigate or resolve a conflict of interest, or the conflict of interest issue cannot be mitigated or otherwise resolved.
- The determination of the Authority as to whether a conflict of interest exists shall be final and binding.

Should any of the above language conflict with the Authority's existing policies, the Authority's policies shall prevail.

L. Request for Clarification - Conflicts

A prospective Respondent or Respondent Team Member or advisor of a Respondent who has any concerns regarding whether a current or prospective employee, advisor or a Respondent Team Member of that Respondent has or may have a conflict of interest, is encouraged to request an advance ruling in accordance with this Section through the following process may, on a confidential basis, request a "clarification from the Authority by submitting an inquiry in accordance with Section C of Part I of this RFP, and providing all relevant information The

Authority may request additional information. The Authority will not be held liable for any determination on verification issued in relation to conflicts of interest on possible conflicts of interest or possible conflicts of interest.

M. Respondent Team

- Respondent Team Members, including affiliates of Respondent Team Members, may not be Respondent Team Members of any other Respondent, unless (a) the Authority expressly approves in advance, (b) a Respondent Team Member is removed from one Respondent Team in accordance with this Section M, or (c) the Respondent is not pre-qualified and joins a Respondent that has been pre-qualified in accordance with this Section M.
- If a Respondent wishes to remove, add or otherwise change a Respondent Team Member (including any Joint Venture Member if the Respondent is a Joint Venture Respondent) after the submission of its Response, then it must first obtain the written approval of the Authority, which approval may be granted in the Authority's sole discretion. In making its determination to grant or deny such approval, the Respondent will provide the Authority with such information, documents and other records as the Authority may request, including all information, documents and other records required under this RFP and all agreements and amendments to agreements demonstrating the amended Respondent Team structure.
- A Change in Control of a Respondent Team Member is deemed to be a change to such Respondent Team Member for the purposes of this Section M, and requires the approval of the Authority.

APPENDIX A

Images

Figure 1: U.S. Plaza property limits



Figure 2: U.S. Plaza aerial photo (2018) with project limits



Figure 3: U.S. Plaza partial birds-eye East (2020)



Figure 3: U.S. Plaza partial birds-eye West (2020)



APPENDIX B Reference Files

Figure 1: Snapshot of existing CAD drawings (2018) included herein for information regarding base map CAD files that will be made available to the Consultant.



EXHIBIT A

[See Authority/Consultant Form of Agreement attached herein]

AUTHORITY / CONSULTANT AGREEMENT

THIS AGREEMENT made this ___ day of _____, 20__ by and between the **Buffalo and Fort Erie Public Bridge Authority**, hereinafter called the AUTHORITY, an international compact entity created pursuant to a compact entered into by the State of New York, with the consent of the United States Congress, and by the Government of Canada and _____ hereinafter called the CONSULTANT.

WHEREAS the AUTHORITY desires the CONSULTANT to perform _____ services in connection with the _____ project and;

NOW THEREFORE this Agreement witnesseth that for and in consideration of the mutual covenants contained therein, in pursuance of the provisions of all applicable Federal, Provincial and State statutes together with attachments thereto and supplements thereto, the CONSULTANT and the AUTHORITY agree as follows:

SECTION I: CONTRACTING SERVICES

The CONSULTANT for and in consideration of payments hereinafter specified and agreed to by the AUTHORITY shall perform professional services according to Attachment No. 1, General Scope of Services, appended hereto and made a part hereof.

SECTION II: SERVICES TO BE PERFORMED BY THE AUTHORITY

The AUTHORITY shall provide assistance to the CONSULTANT in progressing in an orderly manner the work set forth herein, as follows:

1. Cooperation in providing access and time periods to enable technical personnel to conduct field investigations in connection with contract implementation.
2. Traffic protection while working on AUTHORITY property.

SECTION III: TIME OF COMPLETION

Upon receipt of an executed contract from the AUTHORITY, the CONSULTANT shall complete all services not later than _____, unless amended by the AUTHORITY in writing.

SECTION IV: COMPENSATION

For contracting services described herein, the AUTHORITY shall pay the CONSULTANT in accordance with the Rates for Professional Fees (Attachment No. 2).

Fees for the above items shall not be exceeded without the prior written approval of the AUTHORITY.

Interim payments for services shall be billed at monthly intervals based on percentage of completion for Lump Sum tasks and actual hours times the hourly rate for hours tasks (where applicable). Format for invoices will be a joint effort with the CONSULTANT and AUTHORITY. The AUTHORITY will review invoices within three (3) working days of receipt. If invoices are found to be correct, in good order and in the proper format, CONSULTANT will be paid within thirty (30) calendar days. In the event an invoice is disputed, the CONSULTANT and AUTHORITY will work to resolve the dispute. If there are portions

of the invoice not in dispute, they will be paid within thirty (30) days after review. Disputed portions will be paid within thirty (30) days of resolution. The CONSULTANT shall have no claim for interest on any disputed amounts that require more than thirty (30) days to resolve. The CONSULTANT agrees to pay all sub-consultants within thirty (30) days of receipt of payment by AUTHORITY.

The CONSULTANT shall not begin work on any items listed in the Attachments without the prior written approval of the AUTHORITY.

SECTION V: TERMINATION OF AGREEMENT

The AUTHORITY may terminate this Agreement upon thirty (30) calendar days written notice upon failure of the CONSULTANT to perform duties specified herein or to comply with the terms hereof or upon abandonment or postponement of the project.

The CONSULTANT may terminate this Agreement upon thirty (30) calendar days written notice upon failure of the AUTHORITY to make payment to the CONSULTANT as herein provided.

SECTION VI: SUBCONTRACT

It is further agreed that the CONSULTANT shall not assign this Agreement or any part thereof, nor any right to any monies to be paid the CONSULTANT hereunder; nor shall any part of the work to be done under the Agreement be sublet, without written consent of the AUTHORITY.

SECTION VII: REGULATIONS, CODES, PERMITS AND PROFESSIONAL LICENSURE

The CONSULTANT agrees to comply with all Federal, State, Regional and Local laws and regulations applicable to the work to be done under this Agreement. Any licenses or permits necessary for the performance of the professional services required under this Agreement shall be obtained by the CONSULTANT. The CONSULTANT shall secure Workmen's Compensation for his employees as required by law.

The CONSULTANT warrants that it and all sub-consultants are licensed to practice their respective professional disciplines in the State of New York.

SECTION VIII: INDEPENDENT CONTRACTOR

The CONSULTANT shall be deemed an independent contractor for all purposes of this Agreement and is not authorized to incur expenses or create any liability or indebtedness on behalf of the AUTHORITY.

SECTION IX: WORK PRODUCT OWNERSHIP

All original detailed survey information, survey notes (copies), data, calculations, drawings, reports, supervision records, and similar "work products" made hereunder shall be and remain the property of the AUTHORITY.

SECTION X: ADDITIONAL ASSIGNMENTS

In addition to the scope defined in this Agreement it is the AUTHORITY's intent to utilize the CONSULTANT for additional assignments to be determined by the AUTHORITY throughout the term of this Agreement.

The AUTHORITY and CONSULTANT will negotiate compensation for each additional assignment. Once agreed upon the AUTHORITY and the CONSULTANT shall execute a Supplemental Agreement describing the additional work and providing for the compensation to be paid therefore.

SECTION XI: EXTRA WORK

No extra work beyond the scope of this Agreement shall be performed by the CONSULTANT unless the AUTHORITY, IN WRITING, specifically directs such work to be performed. In the event such extra work is authorized, the AUTHORITY and the CONSULTANT shall execute a Supplemental Agreement describing the extra work and providing for the compensation to be paid therefore. Upon a written request by the AUTHORITY, the CONSULTANT will continue working during negotiations for said Supplemental Agreement.

SECTION XII: DISPUTES

All questions or disputes respecting any matter pertaining to this Agreement or arising from this Agreement or any part hereof or any breach of said Agreement shall be decided as follows:

(a) If the dispute or matter concerns an amount in controversy (or an alleged amount in controversy) having a value, in the aggregate, of \$75,000 or more, the venue for such dispute shall be the United States District Court for the Western District of New York.

(b) If the dispute or matter concerns an amount in controversy (or an alleged amount in controversy) whose value, in the aggregate, is less than \$75,000, the exclusive remedy of the parties shall be to submit the matter to binding arbitration in Buffalo, New York in accordance with the then current Commercial Arbitration Rules of the American Arbitration Association. Notice of a demand for arbitration hereunder by any party hereto shall be given in writing to all other parties hereto which or who shall be involved in any such controversy, claim or cause of action and to the American Arbitration Association. Within five (5) days after any such demand for arbitration shall have been given by any party hereto, the AUTHORITY shall select one arbitrator, and CONSULTANT shall select one arbitrator. The two arbitrators so selected shall select a third arbitrator within fifteen (15) days after their selection and such third arbitrator shall have not less than ten (10) years' experience in the practice of commercial/business law. The forgoing three arbitrators shall constitute the panel of arbitrators that shall hear and decide the matter (the "Panel"). The Panel shall be authorized to compel discovery prior to any arbitration proceeding. The parties agree that the power of the Panel to compel discovery and award damages shall be the same as the power of a judge in a civil proceeding in New York Supreme Court. The decision of the Panel shall be final and binding on the issue or issues submitted to arbitration. The award rendered by the arbitrators shall be final and binding and judgment may be entered thereon in accordance with applicable law in any State court sitting in New York. The parties agree that the Panel may order injunctive relief and specific performance and that such orders of the Panel shall be binding upon the parties.

To the extent not prohibited by applicable law which cannot be waived, each of the parties hereto hereby waives, and covenants that it will not assert (whether as plaintiff, defendant or otherwise), any right to trial by jury in any forum in respect of any issue, claim, demand, action, or cause of action arising out of or based upon this Agreement or the subject matter hereof whether now existing or hereafter arising and whether in contract or tort or otherwise. Either party may file an original counterpart or a copy of this section with any court as written evidence of the consent of both parties hereto to the waiver of its rights to trial by jury.

SECTION XIII: INSURANCE

The CONSULTANT shall provide the following coverages and limits:

1. The CONSULTANT shall procure and maintain at its own expense, and without expense to the AUTHORITY, until final acceptance by the AUTHORITY of the work covered by the Contract, insurance for liability for damages imposed by Law, of the kinds and in the amount hereinafter provided with insurance companies authorized to do such business in the State of New York covering all operations under the Contract, whether performed by him or by a Sub-consultant.
2. Cancellation Notice: Each insurance policy and certificate of insurance shall contain a provision providing that it shall not be cancelled or changed by the CONSULTANT or Insurance Company without thirty (30) calendar days of written notice to the AUTHORITY of intention to cancel or change.
3. Indemnification: It is expressly understood that the CONSULTANT shall indemnify and save harmless the AUTHORITY from claims, suits, actions, damages and costs of every name and description resulting from the negligent performance of the services of the CONSULTANT under this Agreement and such indemnity shall not be limited by reasons of enumeration of any insurance coverage herein provided. Negligent performance of service within the meaning of this Article, shall include, in addition to negligence founded upon tort, negligence based upon the CONSULTANT'S failure to meet professional standards and resulting in obvious or patent errors in the progression of his work. Nothing in this Article or in this Agreement shall create or give to third parties any claim or right of action against the CONSULTANT or the AUTHORITY beyond such as may legally exist irrespective of this Article or this Agreement.

Such obligation does not extend to those suits, actions, damages and cost of every name which arise out of the sole negligence of the AUTHORITY, its agents or employees relative to the construction, alteration, repairs or maintenance of a building, structure, appurtenances and appliances including moving, demolition and excavating connected therewith.

4. Professional Liability: The CONSULTANT and any sub-consultants shall maintain professional liability insurance (also known as Errors and Omissions Insurance) in the amount of \$2,000,000 minimum.
5. Comprehensive General Liability: The CONSULTANT shall procure and maintain until final acceptance and at its own expense, comprehensive general liability to include:
 - i. Contractor's Liability;
 - ii. Contractor's Protective Liability;
 - iii. Completed Operations Liability;
 - iv. Contractual Liability.

The limits of such insurance shall be not less than:

\$1,000,000 combined single limit, each occurrence;
\$2,000,000 aggregate.

6. Automobile: The CONSULTANT shall procure and maintain until final acceptance and at its own expense, automobile liability and property damage insurance, covering the use, in connection with the work, of all owned, non-owned and hired vehicles required by the vehicle and traffic law of the

State of New York to bear license plates. The coverage under such policy shall not be less than the following limits:

\$1,000,000 combined single limit;
bodily injury and property damage.

7. Workers Compensation: The CONSULTANT shall procure and maintain, until final acceptance and at its own expense, Workers Compensation and Employers Liability Insurance, covering the obligations of the CONSULTANT in accordance with Workers Compensation and Employers Liability Insurance Law, covering all operations under the Contract, whether performed by it or its Sub-consultants or Suppliers.
8. Umbrella: Excess liability coverage for each of the above with a limit of \$2,000,000 each occurrence and \$2,000,000 aggregate.

The CONSULTANT will provide Certificates of Insurance prior to commencing work. The Insurance policies must clearly include the Buffalo and Fort Erie Public Bridge Authority, its Board and AUTHORITY employees as additional insured. The CONSULTANT will be required to maintain all coverages throughout the schedule of the Project. The cost of all insurances is the responsibility of the CONSULTANT.

SECTION XIV: APPLICABLE LAW

This contract, shall be governed by the law of the United States of America, as applicable to an international compact entity.

SECTION XV: MISCELLANEOUS

The section titles are for convenience only and shall not be construed to affect the meanings of the sections titled.

SECTION XVI: ATTACHMENTS

Included as part of this AGREEMENT are the following:

- | | |
|-------|--------------------------------------|
| No. 1 | General Scope of Service |
| No. 2 | Rates for Professional Services |
| No. 3 | Conflict of Interest Form |
| No. 4 | Equal Employment Opportunity Program |
| No. 5 | Certificates of Insurance |

IN WITNESS WHEREOF, the parties hereunder have caused this Agreement to be executed as of the day and year first above written.

**BUFFALO AND FORT ERIE
PUBLIC BRIDGE AUTHORITY**

(SEAL)

BY: _____
General Manager

In Presence of:

BY: _____

(SEAL)

CONSULTANT

BY: _____

In Presence of:

BY: _____

No. 1 GENERAL SCOPE OF SERVICES

No. 2 RATES FOR PROFESSIONAL SERVICES

No. 3 CONFLICT OF INTEREST FORM

CONSULTANT represents and warrants to the AUTHORITY that neither the CONSULTANT nor any shareholder, director or employee of the consultant is related to, affiliated with or interested in any subcontractor or sub-consultant that may be employed by the CONSULTANT, nor is the CONSULTANT or any of the CONSULTANT's shareholders, directors or employees related to, affiliated with or interested in, any director or employee of the AUTHORITY. CONSULTANT represents and warrants that it has no knowledge of any fact or circumstance that would constitute a conflict of interest or the appearance of a conflict of interest in its performance of the services included within the proposal.

No. 4 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

The Authority's enabling legislation, in Chapter 149, § 9-a and -b of Unconsolidated Laws of the State of New York, includes certain requirements for all contracts for design, construction, services and materials, of whatever nature. These requirements do not apply to contracts to be performed outside the State of New York. These requirements include the following provisions.

1. The Equal Employment Opportunity and Affirmative Action Clause, as set forth by the Department of Labor, 41 C.F.R. Section 60-1.4(a) is hereby incorporated by reference herein insofar as it is required by such regulations and unless exempted by applicable statutes, rules, regulations or orders. The contractor and subcontractor also agree, unless exempted, to incorporate by reference and abide by Executive Order 11246.

This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

NATIONAL LABOR RELATIONS ACT NOTICE

Executive Order 13496 requires that non-exempt Federal contractors provide notice to their employees of their rights under the National Labor Relations Act and post a notice prescribed by the Secretary of Labor.

https://www.dol.gov/olms/regs/compliance/EmployeeRightsPoster2page_Final.pdf

NLRA notice is also required to be included in all non-exempt contracts, subcontracts and purchase orders which can be done by citing to 29 C.F.R. Part 471, Appendix A to Subpart A.

2. At the request of the Authority, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of the contract with the Authority to furnish a written statement that such employment agency, labor union or representative **shall abide by the requirements of 41 CFR 60-14.(a), 60-300.5(a) and 60-741.5(a)**, Executive Order 11246, and Executive Order 13496.
3. The Contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor in the performance of the contract with the Authority, that all qualified applicants will be afforded **equal employment** opportunity in compliance with **the requirements of 41 CFR 60-14.(a), 60-300.5(a) and 60-741.5(a) and will include all required language as prescribed by the statute.**
4. The Contractor will include the above provisions in section 1 of this section in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work in connection with the contract with the Authority.

5. The Authority may establish procedures and guidelines to ensure that contractors and subcontractors undertake programs of affirmative action and **equal employment** opportunity as required by this section. Such procedures may require after notice in a bid solicitation, the submission of an affirmative action program prior to the award of any contract, or at any time thereafter, and may require the submission of compliance reports relating to the operation and implementation of any affirmative action program adopted hereunder. The Authority may take appropriate action including contractual sanctions for non-compliance to effectuate the provisions of this section and shall be responsible for monitoring compliance with this section.

Minority and Women-Owned Business Enterprise Program

- A. Minority and women-owned business enterprises shall be given the opportunity for meaningful participation. The Authority requires that the Contractor establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are Black, Hispanic, Asian or American Indian, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day-to-day business decisions of the entity; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day-to-day business decisions of the entity. The provisions of this paragraph shall not be construed to limit the ability of any minority or women-owned business enterprise to bid on any contract.
- B. In the implementation of this section, the Authority shall consider compliance by any contractor with the requirements of any federal, state, or local law concerning minority and women-owned business enterprises, which may effectuate the requirements of this section. If the Authority determines that by virtue of the imposition of the requirements of any such law, in respect to project contracts, the provisions thereof duplicate or conflict with this section, the Authority may waive the applicability of this section to the extent of such duplication or conflict.
- C. Nothing in this section shall be deemed to require that overall state and federal requirements for participation of minority and women-owned business enterprises in the project be applied without regard to local circumstances to all projects or in all communities or any contract to be performed in Canada.
- D. In order to implement the requirements and objectives of this section, the Authority shall establish procedures to monitor the contractors' compliance with provisions hereof, provide assistance in obtaining minority and women-owned business enterprises to perform contracts proposed to be awarded, and take other appropriate measures to improve the access of minority and women-owned business enterprises to these contracts.

No. 5 CERTIFICATES OF INSURANCE