



Detroit/Wayne County Port Authority

Request for Proposals for:  
Ferry Service Feasibility Study  
Consulting Services

August 2, 2023

| Table of Contents   | Page |
|---|------|
| I. Introduction.....  | 1    |
| II. Detroit/Wayne County Port Authority.....                    | 1    |
| III. Ferry Service Contemplated.....                            | 1    |
| IV. Purposes of the RFP.....                                    | 2    |
| V. RFP Timeline.....  | 2    |
| VI. Submittal Requirements.....                                 | 2    |
| VII. Scopes of Work.....  | 3    |
| VIII. Review, Interview and Selection.....                      | 4    |
| IX. Agreement Terms.....  | 4    |
| X. Freedom of Information Act.....                              | 4    |
| XI. Prohibited Communications During RFP Timeline.....          | 5    |
| XII. Insurance Requirements.....                                | 5    |
| XIII. Conflict of Interest/Statement of Non-Collusion.....      | 5    |
| XIV. Addenda.....   | 5    |
| XV. Certifications.....   | 6    |
| XVI. Reservation of Rights of the Port Authority.....           | 6    |
| Attachment A: Consulting Services Agreement Standard Terms..... | 9    |

# Request for Proposals

## Ferry Service Feasibility Study Consulting Services

### I. Introduction

The City of Detroit has commissioned the Detroit/Wayne County Port Authority to undertake study of the feasibility for a seasonal ferry service along the Detroit River. The service would provide the opportunity for tourists and residents to visit locations from the southern end of Wayne County, through downtown, Belle Isle and to the northeast end of Wayne County. As set forth in more detail herein, the study will include the following components: a) market surveys; b) ferry-type analysis; c) routes and location analysis; d) capital cost analysis; e) operational cost analysis; and f) revenue generation. Consultants experienced in performing feasibility studies for ferry services, operating ferry services, or economic development initiatives are encouraged to review and respond to this Request for Proposals (“RFP”).

### II. Detroit/Wayne County Port Authority

The Port Authority is a governmental entity, created by agreement between the City of Detroit and Wayne County over 30 years ago for the purpose of promoting maritime trade, developing port facilities and supporting economic development initiatives within the Port of Detroit (defined below). The Port Authority’s governing statute is the Hertel-Law T. Stopczinski Port Authority Act 639 of 1978 (MCL 120.101 et seq.), which grants the Port Authority the power to, among other things, perform studies and promote commerce, health and recreation within the Port of Detroit. A ferry service along the Detroit River could contribute to the recreational enjoyment of the River, increase awareness of its importance to the local economy, and promote jobs within the maritime industry.

### III. Ferry Service Contemplated

The ferry service contemplated by this RFP is mainly for tourists (local and visitors) who wish to explore the many parks and recreational amenities and enjoy a boat ride along the Detroit River. The study will evaluate multiple locations along the Detroit River that: a) have the potential for market demand; and b) have suitable dock access. The following locations should be considered:

- Lake Erie Metro Park
- Gibraltar
- Grosse Ile
- Wyandotte
- Ecorse
- River Rouge
- Historic Fort Wayne
- Riverside Park
- Hart Plaza
- Milliken State Park
- Belle Isle
- Riverside Marina
- Grosse Pointe

It is the goal of the RFP to identify the optimal beginning and ending dates of the season, as well as the dates and hours of the service.

#### IV. RFP Timeline

This tentative schedule is provided for the convenience of Responders, but may be subject to change at any time by the Port Authority. Any such changes will be stated in an addendum to this RFP or otherwise communicated to Responders.

| Date                   | Event  |
|------------------------|--|
| August 2, 2023         | RFP issued   |
| August 17, 2023<br>1pm | Pre-proposal video conference (Teams)                                |
| August 18, 2023        | Deadline for questions, clarifications (see below)                   |
| August 21, 2023        | Question responses posted online                                     |
| September 1, 2023      | Deadline for Responders to submit proposals                          |
| September 5, 2023      | Notice to top Responders of interview times, if applicable           |
| September 7, 8, 2023   | Possible interviews of top Responders                                |
| September 12, 2023     | Anticipated date Port Authority will notify awardees                 |
| September 15, 2023     | Port Authority Board Meeting – anticipated date of contract approval |
| October 1, 2023        | Work Commences   |

#### Notes:

- Pre-Proposal video conference will be August 17, 2023 at 1 pm Eastern Time, via Teams. To participate, send an email request to [mschrupp@portdetroit.com](mailto:mschrupp@portdetroit.com), with “Pre-Proposal” in the Re: line.
- Questions: Responders may submit questions concerning the RFP to [mschrupp@portdetroit.com](mailto:mschrupp@portdetroit.com). All questions and answers will be shared with all potential Responders via email.

#### V. Submittal Requirements

**Only electronic submittals will be accepted.**

Proposals must include the following sections (to be submitted in this order only):

##### A. Proposal summary (1 pg. max)

Discuss the highlights and distinguishing points of the proposal. Include a list of individuals and contacts for this proposal and how to communicate with them. Clearly indicate to which Scopes of Work the proposal is responding.

B. Proposer's Qualifications and Experience (3 pg. max)

Describe the Responder's qualifications and experience in performing services relevant to the scope of work described below. Include a resume of the consultant(s) who will be performing the services. Provide summaries of experience or resumes for all key staff or subconsultants. Provide an overview of the Responder's experience on at least three similar, analogous or related projects. Include copies of at least one ferry boat or related feasibility study performed by the Responder.

C. Proposed Work Plan for the Scopes of Work (2 pg. max for each Scope of Work)

Present an outline of Responder's plan for completing the scopes of work and the deliverables. The work plan should include the approximate time required for each scope and deliverable.

D. Cost proposal (1 pg. max)

Provide a detailed budget and not-to-exceed figure for all labor, fees and out-of-pocket expenses for the services and deliverables described Scope of Work. Responders will be responsible for any taxes, mileage, office and other expenses not identified in the proposal.

E. Conflict of Interest/Non Collusion Certification

Provide a statement meeting the requirements of section XII below regarding Conflicts of Interest and Non-Collusion.

F. Confirmation of acceptance of contract terms or explanation of proposed contract modifications

List all exceptions or requested changes that Responder has to the terms of the RFP and the Port Authority's standard contract attached hereto. Items not excepted or changed will not be open to later negotiation.

**VI. Scopes of Work**

Within six (6) months of the start of work, Responders will be required to carry out the following Scopes of Work.

- A. Market Study: Responder will perform a study or survey to determine the likely demand or customer interest in using a ferry service, as well as the preferred types of service and routes. The study will also gauge the price potential customers are willing to pay for the various service options.
- B. Location Option Analysis: Responder will identify and evaluate potential locations for the service and provide an analysis of the estimated costs (upfront and ongoing) of establishing the service at each location. Responder will also provide maps and diagrams for each location and a description of any required physical modifications, as well as the estimated cost.
- C. Route Analysis: Responder will identify and evaluate a range of potential routes, service times and frequencies.
- D. Ferry Boat Type and Service Provider Analysis: Responder will investigate multiple types of ferry boats, including those powered by electricity or low or zero emission fuel. In addition, Responder will investigate and identify potential service providers willing to provide ferry services – either with their own boat or a boat provided to them.

- E. Capital and Start-up and Future Capital Cost Requirements: Responder will prepare a detailed estimate of the initial costs of establishing the ferry service. The report will include the cost of acquiring boats, constructing or acquiring locations for boat docking and off-season storage, constructing any modifications at all of the dock/site locations, planning and administrative startup costs, among others. Responder will also identify future costs of replacing boats and other capital investments. It will be the Responder's responsibility to identify all other capital and start-up costs.
- F. Costs of Operation: Responder will provide a detailed estimate of the cost of operating the ferry boat system.
- G. Estimated Revenues: Responder will provide a reasoned estimate of the potential revenue that can be reasonably generated from the ferry service from fees, advertisements, concessions, sponsorships, grants (federal and state). The estimate should include a recommended fee structure.
- H. Feasibility Evaluation: Responder will be expected to provide a professional recommendation of the feasibility of the ferry service. Feasibility shall be inclusive of financial, logistical and practical considerations. The evaluation should identify the locations, types of boats and service (contracted or self operation), routes, and fee structures that are most feasible. The analysis may consider the need for government subsidy.

## **VII. Review, Interview and Selection**

In addition to meeting the requirements set forth in the Submittal Requirements section above, proposals will be evaluated based on the following non-exclusive list of criteria:

- Qualifications and experience of the Responder providing similar services, including the capability and experience of key personnel;
- History of successfully performing services for other entities;
- Cost to perform the Scopes of Work identified in this RFP;
- Plan of Work;
- Pertinent references; and
- Acceptance of the Port Authority's standard contract terms and conditions

The Port Authority reserves the right to consider factors other than those specified above and to request additional information from any/all Responders as a part of the selection process.

## **VIII. Agreement Terms**

Awardees will be required to enter into a contract using the Port Authority's standard contract terms. Modification of the contract terms may be proposed by the Responder for consideration by the Port Authority but are not guaranteed to be accepted. The Port Authority's standard contract terms are available for review in Appendix A.

## **IX. Freedom of Information Act**

All Responders acknowledge that the Port Authority is a public body subject to the requirements of the Michigan Freedom of Information Act (MCL 15.231, et seq.) ("FOIA") and that Responder's submissions in response to this RFP will be subject to disclosure in the event of a request for such documents is made pursuant to the FOIA. The Port Authority may assert objections to requests for documents related to the RFP until

selections and award are made. However, after such time, responses to the RFP will be available for copying or inspection pursuant to the FOIA.

#### **X. Prohibited Communications During RFP Timeline**

Please note that to insure the proper and fair evaluation of a proposal, the Port Authority prohibits communication initiated by a Responder to a Port Authority employee or member of the Board of the Port Authority, except as provided in the RFP for emailed questions and answers and during interviews until the time a decision has been made by the Board of the Authority. Communication between Responder and the Port Authority may be initiated by the appropriate employee in order to obtain information or clarification needed to develop a proper and accurate evaluation of the proposal. Violations of this section may be grounds for disqualifying the offending Responder from consideration or award of the proposal, then in evaluation, or any future proposal.

#### **XI. Insurance Requirements**

All insurance shall be secured from or countersigned by an agent or surety company recognized in good standing and authorized to do business in the State of Michigan.

The Responder shall, within thirty (30) days of notification of award and prior to commencement of work, take out and maintain in full force and effect minimum insurance coverage as specified in the attached requirements. This insurance shall remain in force and effect throughout the duration of the contract.

A certificate of existing insurance coverage should be submitted with the proposal as proof of insurability. If the current coverage does not meet the RFP requirements, then the Responder should request an affidavit of insurability from the Responder's insurance agent that certifies the requirements can and will be met. Failure to provide adequate insurance coverage may be cause for disqualification as non-responsive to the RFP requirements.

#### **XII. Conflict of Interest/Statement of Non-Collusion**

All Responders must disclose with their proposal the name of any officer, director, or agent who is also an employee, member of the Board of the Port Authority or an immediate family member of such employee or member of the Board. Further, all Responders must disclose the name of any Port Authority employee or member of the Board who owns, directly or indirectly, an interest of five percent (5%) or more of the Responder's firm or any of its branches.

In addition, the Responder shall certify that he/she has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive responses in connection with the proposal and that the Responder is not financially interested in, or otherwise affiliated in a business way with any other Responder.

#### **XIII. Addenda**

It is the Responder's responsibility to contact the Port Authority prior to submitting a proposal to ascertain if any addenda have been issued, to obtain all such addenda and return executed addenda with the proposal.

The failure of a Responder to submit acknowledgement of any addenda that affects the proposal price(s) may be considered an irregularity and may be cause for rejection of the proposal.

#### **XIV. Certifications**

The submission of a proposal shall be deemed a representation and certification by the Responder that it:

- Has read, understands and agrees to the information and requirements set forth in this RFP
- Has the capability to complete the responsibilities and obligations of the proposal being submitted
- Represents that all information contained in the proposal is true and correct
- Acknowledges that the Port Authority has the right to make any inquiry it deems appropriate to substantiate or supplement information supplied by the Responder, and Responder hereby grants the Port Authority permission to make these inquiries
- Will provide any and all documentation related to the proposal in a timely manner
- Is eligible to submit a proposal because he/she is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in a transaction by any Federal, State, or local department or agency.

#### **XVI. Reservation of Rights of the Port Authority**

The Port Authority is not obligated to respond to any proposal submitted as part of the RFP. The Port Authority **at its sole discretion reserves the right to waive technicalities or irregularities, to reject any or all proposals, and/or to accept that proposal which is in the best interest of the Port Authority.** The award of this proposal, if made, may be based on considerations other than total cost and may be awarded based on various considerations, including without limitation Responder's experience and/or qualifications, past experience, administrative cost, standardization, technical evaluation and oral and/or written presentations as required. The Port Authority reserves the right to accept all or part, or to decline the whole, and to award this RFP to one (1) or more Responders. There is no obligation to award any contract. The RFP, if awarded, will be in the judgment of the Port Authority the most responsive to its needs.



**Attachment A – Consulting Services Agreement Standard Terms**

AGREEMENT BETWEEN THE DETROIT/WAYNE COUNTY PORT AUTHORITY

And \_\_\_\_\_ FOR

FERRY SERVICE FEASIBILITY STUDY CONSULTING SERVICES

THIS AGREEMENT, is entered into this \_\_ day of \_\_\_\_, 2023, by and between the DETROIT/WAYNE COUNTY PORT AUTHORITY, Michigan Public Corporation an independent public agency, ("Authority"), and \_\_\_\_\_ (hereinafter referred to as "Consultant") (collectively referred to as the "Parties").

RECITALS:

A. Authority is a Michigan municipal corporation organized under the Hertel-Law T. Stopczinski Port Authority Act 639 of 1978 (MCL 120.101 et seq.), with the power to conduct its business and enter into agreements.

B. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.

C. Authority and Consultant desire to enter into an agreement for \_\_\_\_\_ upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on \_\_\_\_\_ and shall terminate on \_\_\_\_\_ unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED**

Consultant shall perform each and every service set forth in Exhibit "A" pursuant to the schedule of performance set forth in Exhibit "B," both of which are attached hereto and incorporated herein by this reference.

3. **COMPENSATION TO CONSULTANT**

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

Consultant and Authority agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE**

Consultant agrees to perform all services required by this Agreement in a manner commensurate with the prevailing standards of specially trained professionals in the metropolitan Detroit Area and agrees that all services shall be performed by qualified and experienced personnel.

6. **INDEPENDENT PARTIES**

Authority and Consultant intend that the relationship between them created by this Agreement is that of an independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by Authority to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from Authority to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant.

7. **NO RECOURSE AGAINST CONSTITUENT MEMBERS OF AUTHORITY.**

Authority is organized as a municipal corporation and is a public entity separate from its founding entities. Authority shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Contractor shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Authority's founding entities in connection with this Agreement.

8. **NON-DISCRIMINATION**

Consultant agrees that it shall not harass or discriminate against a job applicant, an Authority employee, or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual orientation, or any other protected class. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**

Consultant shall, to the fullest extent allowed by law indemnify, defend, and hold harmless the Authority and its members, officers, officials, agents, employees and volunteers from and against any and all liabilities, claims, actions, causes of action, demands, damages and losses whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of or related to the negligence or willful misconduct of Consultant or Consultant's employees, officers, officials, agents or independent contractors in the performance of this Agreement, except where caused by the sole or active negligence or willful misconduct of Authority or its members, officers, officials, agents, employees and volunteers. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation. The acceptance of the services provided by this Agreement by Authority shall not operate as a waiver of the right of indemnification. The provisions of this Section survive the completion of the services or termination of this Agreement.

10. **INSURANCE:**

A. General Requirements. On or before the commencement of the term of this Agreement, Consultant shall furnish Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the requirements listed in Exhibit "D," which is attached hereto and incorporated herein by this reference. Such insurance and certificates, which do not limit Consultant's indemnification obligations under this Agreement, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Authority by certified mail, Attention: Executive Director." Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to Authority and licensed to do insurance business in the State of Michigan. Endorsements naming the Authority as additional insured shall be submitted with the insurance certificates.

B. Subrogation Waiver. Consultant agrees that in the event of loss due to any of the perils for which he/she has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to his/her/its insurance for recovery. Consultant hereby grants to Authority, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or Authority with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of Consultant may acquire against Authority by virtue of the payment of any loss under such insurance.

C. Failure to secure or maintain insurance. If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, Authority shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. Additional Insured. Authority, its members, officers, employees and volunteers shall be named as additional insureds under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. Sufficiency of Insurance. The insurance limits required by Authority are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

F. Maximum Coverage and Limits. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be the minimum coverage and limits specified in this Agreement, or the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

11. **CONFLICT OF INTEREST**

Consultant warrants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it will not employ any person having such an interest. Consultant agrees to advise Authority immediately if any conflict arises.

12. **PROHIBITION AGAINST TRANSFERS**

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of Authority. Any attempt to do so without such consent shall be null and void, and any assignee, sublessee, pledgee, or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from Authority under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to Authority by Consultant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Consultant is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation.

13. **SUBCONTRACTOR APPROVAL**

Unless prior written consent from Authority is obtained, only those persons and subcontractors whose names are attached to this Agreement shall be used in the performance of this Agreement.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in substantial conformity to the insurance carried by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

Consultant agrees to include within their subcontract(s) with any and all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by Consultant shall agree to be bound to Consultant and Authority in the same manner and to the same extent as Consultant is bound to Authority under this Agreement. Subcontractors shall agree to include these same provisions within any sub-subcontract. Consultant shall provide a copy of the Indemnity and Insurance provisions of this Agreement to any subcontractor. Consultant shall require all subcontractors to provide valid certificates of insurance and the required endorsements prior to commencement of any work and will provide proof of compliance to Authority.

14. **REPORTS**

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by Consultant pursuant to or in connection with this Agreement, shall be the exclusive property of Authority. Consultant shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to Authority the copyright to Reports created pursuant to this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of Authority, and all publication rights are reserved to Authority. Consultant may retain a copy of any Report furnished to the Authority pursuant to this Agreement.

B. All Reports prepared by Consultant may be used by Authority in execution or implementation of: (1) The original Project for which Consultant was hired; (2) Completion of the original Project by others; (3) Subsequent additions to the original project; and/or (4) Other Authority projects as Authority deems appropriate in its sole discretion.

C. Consultant shall, at such time and in such form as Authority may require, furnish reports concerning the status of services required under this Agreement.

D. All Reports shall also be provided in electronic format, both in the original file format (e.g., Microsoft Word) and in PDF format.

E. No Report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement that has not been publicly released shall be made available to any individual or organization by Consultant without prior approval by Authority.

15. **RECORDS**

Consultant shall maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by Authority that relate to the performance of services under this Agreement, in sufficient detail to permit an evaluation of the services and costs. All such records shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of Authority or its designees at all proper times, and gives Authority the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a minimum period of five (5) years after Consultant receives final payment from Authority for all services required under this agreement.

16. **PARTY REPRESENTATIVES**

The Executive Director shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. \_\_\_\_\_ shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL INFORMATION**

A. Consultant shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all Confidential Information held by Authority or provided to Consultant by Authority. Consultant shall exercise the same standard of care to protect such Confidential Information as a reasonably prudent consultant would use to protect its own proprietary or confidential information.

B. The term “Confidential Information” includes all information, documents, and materials owned by Authority, including technical, financial, business, or utility customers’ personal information which is not available to the general public, as well as information derived from such information, which is furnished or made available to Consultant. Information received by Consultant shall not be considered Confidential Information if: (i) it is or becomes available to the public through no wrongful act of Consultant; (ii) it was in the possession of Consultant prior to the date of execution of this Agreement and is not subject to any confidentiality agreement between the Parties; (iii) it is received from a third party without restriction for the benefit of Authority and without breach of this Agreement; (iv) it is independently developed by Consultant; or (v) it is disclosed pursuant to a requirement of law, a duly empowered government agency, or a court of competent jurisdiction, provided that Consultant gives Authority due notice and an adequate opportunity to seek a protective order or equivalent, unless such notice is prohibited.

C. Consultant will direct its employees, contractors, consultants, and representatives who have access to any Confidential Information to comply with the terms of this Section.

D. Upon termination or expiration of this Agreement, Consultant shall, at Authority’s direction, either return or destroy all such Confidential Information and shall so certify in writing. Notwithstanding the foregoing, Consultant may retain copies of the Confidential Information and any related materials (i) to the extent required to comply with applicable legal and regulatory requirements, or (ii) that are retained in any backup tapes or other archival media; provided, however, all retained Confidential Information and related materials shall remain subject to the terms, conditions, and obligations of this Agreement, and any Confidential Information and related materials retained in any backup tapes or archival media shall be overwritten or destroyed in the regular course of business when such backup tapes or archival media are recycled for further use or destroyed.

E. The obligations of this provision will survive termination or expiration of this Agreement.

18. **NOTICES**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals shall be addressed as follows:

TO AUTHORITY:  
130 E. Atwater  
Detroit, MI 48226  
Attention: Executive Director

TO CONSULTANT:  
\_\_\_\_\_

19. **TERMINATION**

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If Consultant fails to cure the default within the time specified (which shall be not less than 10 days) and according to the requirements set forth in Authority's written notice of default, and in addition to any other remedy available to the Authority by law, the Executive Director may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The Executive Director shall also have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) calendar days' prior written notice to Consultant as provided herein. Upon receipt of any notice of termination, Consultant shall immediately discontinue performance.

Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. Upon termination, Consultant shall immediately deliver to the Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement. Such materials shall become the property of Authority.

20. **COMPLIANCE**

Consultant shall comply with all applicable local, state and federal laws.

21. **CONFLICT OF LAW**

This Agreement shall be interpreted under, and enforced by the laws of the State of Michigan. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with District Court of Wayne County, State of Michigan.

22. **ADVERTISEMENT**

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from Authority to do otherwise.

23. **WAIVER**

A waiver by Authority of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

24. **INTEGRATED CONTRACT**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the Parties, and all preliminary negotiations and agreements of

whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by a written document signed by both Authority and Consultant.

25. **AUTHORITY**

The individual(s) executing this Agreement represent and warrant that they have the legal Authority and authority to do so on behalf of their respective legal entities.

26. **INSERTED PROVISIONS**

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

27. **CAPTIONS AND TERMS**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed as of the date set forth above.

CONSULTANT NAME

DETROIT/WAYNE COUNTY PORT AUTHORITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Executive Director Date: \_\_\_\_\_



**Exhibit A**

**Scope of Work**