

STATE LEGISLATIVE CONSULTANT SERVICES AGREEMENT

BY AND BETWEEN

THE TAMPA PORT AUTHORITY AND CAPITAL CITY CONSULTING, L.L.C.

(RFP NO. P-002-22)

This State Legislative Consultant Services Agreement (“**Agreement**”) is entered into between the **TAMPA PORT AUTHORITY d/b/a Port Tampa Bay** (“**Authority**”), a body politic and corporate organized under and existing by virtue of the laws of the State of Florida, whose address is 1101 Channelside Drive, Tampa, Florida 33602, and **CAPITAL CITY CONSULTING, L.L.C.** (“**Consultant**”), a Florida limited liability company, whose address is 124 W. Jefferson Street, Tallahassee, Florida 32301.

RECITALS:

- A.** Authority advertised the Request for Proposals RFP No. P-002-22 (“**RFP/RFQ**”) on June 1, 2022 and June 3, 2022 for State Legislative Consulting Services.
- B.** Consultant submitted a proposal to the Authority to provide the services listed in the RFP.
- C.** Authority’s Board of Commissioners accepted and approved the award of the contract to Consultant at its Board meeting August 16, 2022.
- D.** Authority and Consultant have negotiated the terms of the Agreement set forth below.

NOW THEREFORE, in consideration of the mutual agreements contained herein and given by each party to the other, the parties do hereby covenant and agree as follows:

1. TERM

- a. The term of this non-exclusive Agreement shall be for a period of three (3) years and shall commence on September 10, 2022 and end on September 9, 2025 (“**Term**”). Any negotiated change in any of the terms and conditions requires approval by the Tampa Port Authority Board of Commissioners. Quarterly service reviews may be conducted by Authority and may be used in evaluating optional year renewals.

2. **SCOPE OF SERVICES**

The Consultant shall, in accordance with the highest legal, ethical, and professional standards, perform the duties outlined in the Scope of Services (“**Services**”) attached as **Exhibit “A”** and incorporated by reference herein.

3. **COMPENSATION FOR SERVICES**

Consultant shall be compensated for **actual work performed**, including all costs and expenses incurred in the performance of the Services, in an amount not to exceed the sum of **SIXTY THOUSAND AND NO/100 DOLLARS Dollars (\$60,000)** per contract year, which was allocated in the Authority’s Operating Budget for the initial term of the Agreement; however, there is no obligation for the Authority to spend the allocated budget. All costs and expenses that Consultant may incur in performing the Services are included in and are a part of the total fee described above and will not be reimbursed as part of this Agreement. Consultant shall remit a statement for payment to the Authority Contact (identified below) on or before the 15th day of each month together with a status report and hourly billing for the billing period. If approved, the Authority will mail a payment to Consultant on or before the 15th day of the following month.

Consultant shall bill its fees for the Services rendered under this Agreement on a monthly basis. Professional fees must be described in sufficient detail that the Authority can review and verify the billed time.

4. **SUPERVISION AND STAFFING**

Consultant shall utilize Clay Hollis as the principal contact for the Authority, or such other person as designated by the Authority’s President/Chief Executive Officer (“**Authority Contact**”). The Consultant’s primary contact person regarding assignments from the Authority is designated as Justin Day (“**Consultant Contact**”).

The Consultant Contact shall be responsible for supervising and coordinating the performance of the Services within Consultant’s firm and with its SBE partner, and filing all required reports with the Authority. In addition, the Consultant Contact should make every effort to maintain continuity of personnel for the Authority’s work. Any changes in staff providing services under this Agreement will trigger a review of the Agreement by the Authority and a determination by the Authority as to whether or not it wishes to terminate this Agreement. Should it become necessary to substitute firm personnel, any costs associated with personnel changes will be borne solely by the Consultant.

The Consultant shall utilize the U.S. Department of Homeland Security’s E-Verify system (www.uscis.gov) in accordance with the terms governing the use of the system to confirm the employment eligibility of (1) all persons employed by the Consultant during the Term of the

Agreement to perform employment duties within Florida; and (2) all persons, including sub-consultants, assigned by the Consultant to perform work pursuant to this Agreement with the Authority. Additionally, Consultant shall provide proof of registration in the E-Verify system to the Authority.

5. SBE SERVICES

The utilization of Small Business Enterprise (“SBE”) sub-consultant services was a material consideration in the selection of Consultant to provide the services for this Agreement. The SBE partner initially proposed by Consultant and accepted by the Authority for this Agreement is RSA Consulting, LLC. It is the responsibility of the Consultant to ensure that the services of the Consultant’s SBE partner are utilized in order to achieve the goal included in the Consultant’s proposal. The Consultant shall obtain written acceptance by the Authority before changing, modifying, or adding to the SBE partners proposed by the Consultant.

6. INSURANCE REQUIREMENTS

At all times during the Term of this Agreement, Consultant shall comply with the insurance requirements as set forth in RFP No. P-002-22, attached as **Exhibit “B”** and incorporated by reference herein.

7. PERFORMANCE BOND

No performance bond is required for this Agreement.

8. TERMINATION

Authority may terminate this Agreement, with or without cause, at any time during the Term of this Agreement with thirty (30) days’ advance written notice to the other party at the applicable address set forth herein. In the event of termination under this section, payment **for actual services performed** prior to termination and which are not in dispute by the parties shall be made to Consultant within thirty (30) days of the termination date.

9. TIMELY COMMUNICATIONS

Non-urgent communications should be sent by regular mail or other economical means. Overnight couriers should be used only when reasonably necessary. The Authority encourages the use of e-mail to reduce costs and facilitate quick transmission of documents. Consultant shall at all times be cognizant that any written communications may be subject to Chapter 119, *Florida Statutes* (“**Florida Public Records Law**”), before initiating any communication with the Authority.

10. CONFIDENTIALITY

Consultant acknowledges its responsibility, both during and after the Term, to use all reasonable efforts to preserve the confidentiality of any information or data developed by

Consultant on behalf of the Authority or disclosed by the Authority to Consultant. Notwithstanding the above, the Consultant's obligation to maintain the confidentiality of any such information in its possession or control relating to the Services performed shall be subject to the Florida Public Records Laws and shall be promptly produced by the Consultant to comply with a public records request in accordance with the Florida Public Records Law.

11. COMPLIANCE WITH LAWS

Consultant shall comply with all applicable laws, rules, and regulations, including all state and federal reporting requirements. Consultant shall provide the Authority with a copy of any and all required reports.

12. INDEMNIFICATION

A. General Liability: Consultant shall indemnify, hold harmless, protect, and defend Authority and its Board of Commissioners, officers, employees, and agents, and anyone directly or indirectly employed by either of them, from and against any and all liabilities, losses, claims, damages, demands, expenses, or actions, either at law or in equity, including attorneys' fees, court costs, mediation expenses, paralegal expenses, losses, claims, damages, liabilities, and/or other expenses, that may hereafter be made or brought by anyone on account of personal injury, property damage, loss of monies, or other losses, allegedly caused or incurred, in whole or in part, as a result of any negligent, wrongful, or intentional act or omission, or based on any action of fraud or defalcation by Consultant, or anyone employed or utilized by Consultant in connection with the performance of the Services. These obligations shall survive acceptance of any goods and/or performance and payment by the Authority.

B. Patent or Copyright: Consultant shall indemnify, hold harmless, protect, and defend Authority and its Board of Commissioners, officers, employees, and agents, and anyone directly or indirectly employed by either of them, from and against any and all liabilities, losses, claims, damages, demands, expenses, or actions, either at law or in equity, including attorneys' fees, court costs, mediation expenses, paralegal expenses, losses, claims, damages, liabilities, and/or other expenses, that may hereafter be made or brought by anyone on account of personal injury, property damage, loss of monies, or other losses, allegedly caused or incurred, in whole or in part, as a result of any negligent, wrongful, or intentional act or omission, or based on any action of fraud or defalcation by Consultant, or anyone employed or utilized by Consultant in connection with performance of the Services that may be made or be brought by anyone arising out of any infringement of patent rights or copyrights held by others or for the disclosure or improper utilization of any trade secrets by the Consultant during or after completion of the Services. These obligations shall survive acceptance of any goods and/or performance and payment by the Authority.

13. NOTICE

All notices or other communications regarding this Agreement shall be made in writing and shall be deemed properly delivered when delivered to the addressee at the address stated in this Section (or such other address as may hereafter be specified by notice in writing) by (a) hand

delivery, (b) courier services, or (c) mailing of such notice, registered or certified mail, postage prepaid. All notices under this Agreement shall be sent to the following parties:

Consultant:

Capital City Consulting, L.L.C.
124 W. Jefferson Street
Tallahassee, Florida 32301
Attn: Justin Day – Managing Partner

Authority:

Port Tampa Bay
1101 Channelside Drive
Tampa, Florida 33602
Attn: Lauren Lenhart – Vice President of Government Affairs

With a Copy To:

Charles E. Klug – Principal Counsel (same address as above)

14. PUBLIC RECORDS

This Agreement shall allow public access to all documents, papers, letters, or other material made or received by the Consultant in conjunction with the Agreement, unless the records are exempt from section 24(a) of Article I of the State Constitution or subsection 119.07(1), *Florida Statutes*. Authority may unilaterally terminate the Agreement if the Consultant refuses to allow public access as required in this section.

If, under this Agreement, the Consultant is providing services and is acting on behalf of the Authority, as provided under subsection 119.011(2), *Florida Statutes*, the Consultant, subject to the terms of paragraph 287.058(1)(c), *Florida Statutes*, and any other applicable legal and equitable remedies, shall:

1. Keep and maintain public records required by the Authority to perform the service.
2. Upon request from the Authority's custodian of public records, provide the Authority with a copy of the requested records or allow records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, *Florida Statutes*, or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement and following completion of the Agreement if the Consultant does not transfer the records to the Authority.

4. Upon completion of the Agreement, transfer, at no cost, to the Authority all public records in possession of the Consultant or keep and maintain public records required by the public agency to perform the service. If the Consultant transfers all public records to the Authority upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically shall be provided to the Authority, upon request from the Authority's custodian of public records, in a format that is compatible with the information technology systems of the Authority.

A request to inspect or copy public records relating to the Authority's contract for services must be made directly to the Authority. If the Authority does not possess the requested records, the Authority shall immediately notify the Consultant of the request, and the Consultant must provide the records to the Authority or allow the records to be inspected within a reasonable time. If the Consultant does not comply with the Authority's request for records, the Authority shall enforce the contract provisions in accordance with the Agreement. A Consultant who fails to provide the public records to the Authority within a reasonable time may be subject to penalties under section 119.10, *Florida Statutes*. If a civil action is filed against the Consultant to compel production of public records relating to the Authority's contract for services, the court shall assess and award against the Consultant the reasonable costs of enforcement, including reasonable attorney fees, if:

1. The Court determines that the Consultant unlawfully refused to comply with the public records request within a reasonable time; and
2. At least eight (8) business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Consultant has not complied with the request, to the public agency and to the Consultant.

A notice complies with paragraph 2 above, if it is sent to the Authority's custodian of public records and to the Consultant at the Consultant's address listed in its Agreement with the Authority or to the Consultant's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format. A Consultant who complies with a public records request within eight (8) business days after the notice is sent is not liable for the reasonable costs of enforcement.

If Consultant considers any portion of any documents, data, or records submitted to the Authority to be confidential, proprietary, trade secret, or otherwise not subject to disclosure pursuant to Chapter 119, *Florida Statutes*, the Florida Constitution or other authority, Consultant shall simultaneously provide the Authority with a separate redacted copy of the information it claims is confidential and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. This redacted copy shall contain the Agreement name and number, and shall be clearly titled "Confidential". The redacted copy shall only redact those portions of material that the Consultant claims is confidential,

proprietary, trade secret or otherwise not subject to disclosure.

In the event of a public records or other disclosure request pursuant to Chapter 119, *Florida Statutes*, the Florida Constitution, or other authority, to which documents that are marked as “confidential” are responsive, the Authority will provide the Consultant-redacted copies to the requestor. If a requestor asserts a right to the Confidential Information, the Authority will notify the Consultant such an assertion has been made. It is the Consultant’s responsibility to assert that the information in question is exempt from disclosure under Chapter 119 or other applicable law. If the Authority becomes subject to a demand for discovery or disclosure of the confidential information of the Consultant under legal process, the Authority shall give the Consultant prompt notice of the demand prior to releasing the information labeled “confidential” (unless otherwise prohibited by applicable law). Consultant shall be responsible for defending its determination that the redacted portions of its response are confidential, proprietary, trade secret, or otherwise not subject to disclosure.

Consultant shall protect, defend, and indemnify the Authority for any and all claims arising from or relating to Consultant’s determination that the redacted portions of its response are confidential, proprietary, trade secret, or otherwise not subject to disclosure. If Consultant fails to submit a redacted copy of information it claims is confidential, the Authority is authorized to produce all documents, data, and records submitted to the Authority in answer to a public records request for these records.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS’ DESIGNEE, KATHRYN MACLEOD, kmacleod@tampaport.com, (813) 905-5141, 1101 CHANNELSIDE DRIVE, TAMPA, FLORIDA 33602.

15. GENERAL PROVISIONS

a. **Governing Laws.** This Agreement is to be read and construed in accordance with the laws of the State of Florida. Any disputes relating to this Agreement must be resolved in accordance with the laws of the State of Florida.

b. **Jurisdiction and Venue.** The Consultant, by execution of this Agreement, hereby acknowledges that it is doing business in the State of Florida. In the event the Consultant fails or ceases to have a registered agent or resident agent for service of process located in the State of Florida, the Consultant shall be deemed to constitute and appoint the Secretary of State of Florida as its agent for the service of process in any civil action begun in the courts of the state against Consultant. The execution of this Agreement by the Consultant is signification of its agreement that process against it which is so served is of the same validity as if served personally on Consultant. It is further agreed that venue for all disputes hereunder lies and shall be maintained exclusively in the federal and state courts with jurisdiction in Hillsborough County, Florida, and

Consultant hereby expressly waives any right it has to object to the venue of any action commenced in any courts in Hillsborough County, Florida.

c. **Amendments.** This Agreement may be amended from time to time provided the Authority and the Consultant mutually agree to such amendment, and the amendment is stated in writing, executed by both parties, and attached to the original executed copies of this Agreement.

d. **Waivers.** Any waiver at any time by either party of any breach of, or default in, any of the terms, covenants, provisions, and conditions of this Agreement or these general Agreement conditions shall not be construed to be a waiver of any other terms, covenants, provisions, and conditions hereof or a waiver of any breach of default other than that specifically waived. The Authority's failure at any time to compel a fulfillment of any one or more of the covenants or agreements contained in, or to exercise any one or more of its rights or remedies under this Agreement shall not be construed to be a waiver of the Authority's right thereafter to enforce any such covenant or agreement or to exercise any such right or remedy. No waiver by the Authority shall be deemed to have been made unless expressed in writing and signed by the Authority.

e. **Severability.** If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

f. **No Agency Relationship Created.** Nothing contained in this Agreement shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between the Authority and the Consultant.

g. **Gender Neutral.** The neuter gender includes the feminine and masculine, and the singular number includes the plural, and the word "person" includes a corporation, partnership, firm, or association wherever the context so required.

h. **Remedies Cumulative.** No remedy or election given by any provision in this Agreement shall be deemed exclusive unless expressly so indicated. Wherever possible, the remedies granted hereunder upon a default of the other party shall be cumulative and in addition to all other remedies at law or equity arising from such event of default, except where otherwise expressly provided.

i. **Disputes and Attorneys' Fees.** The Services shall be performed by the Consultant to the reasonable satisfaction of the Authority, and all questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution and fulfillment of the Services hereunder and the character, quality, amount, and value thereof, which cannot be settled by mutual agreement of the parties shall be settled by recourse to litigation under Florida law. In the event of default or breach of any portion of this Agreement, should the party not in default employ attorneys to protect or enforce its rights hereunder and prevails, the defaulting party agrees to pay the reasonable attorneys' fees incurred by the prevailing party,

including, without limitation, any fees and costs incurred during mediation, appellate or administrative proceedings.

j. **Time of Essence.** Time is of the essence with respect to each date or time specified in this Agreement by which an event is to occur.

k. **Assignment.** This Agreement may not be assigned by Consultant without the prior written consent of the Authority.

l. **Parties Bound.** This Agreement binds and inures to the benefit of the parties and their respective successors and assigns where assignment is permitted by this Agreement.

m. **Headings and Captions.** All headings and captions in this Agreement are for reference and convenience only, and shall not be held to modify or affect the substantive terms and provisions of this Agreement in any manner.

n. **Interpretation.** Both Authority and Consultant and their respective legal counsel have reviewed and have participated in the preparation of this Agreement. According, no presumption will apply in favor of either party in the interpretation of this Agreement or in the resolution of the ambiguity of any provision hereof.

o. **Entire Agreement.** This Agreement constitutes the parties' final and mutual agreement. There are no written or oral representations or understandings that are not fully expressed in this Agreement. No change, waiver, or discharge is valid unless in writing that is signed by the party against whom it is sought to be enforced.

p. **Counterparts.** The parties hereto may execute this Agreement in counterpart and such signatures shall have the same effect as if signed all at the same time. Regardless of the specific dates executed by the Consultant, the binding date for purposes of execution shall be the date signed by Authority.

q. **Electronically Executed Documents.** The parties agree and consent that this Agreement may be signed electronically in accordance with §668.50, *Fla. Stat.* and that such electronic signatures will have the same authority as if this Agreement was signed in person with a "wet" signature.

r. **Third Parties.** In no event shall any of the terms of this Agreement confer upon any third person, corporation, or entity other than the parties hereto any right or cause of action for damages claimed against any of the parties to this Agreement arising from the performance of the obligation and responsibilities of the parties herein or for any other reason.

s. **Payment Obligations.** To the extent the Authority has payment obligations hereunder, such obligations are not secured by a specific lien upon any "Pledged Funds" as defined in the Authority's outstanding bond documents, but are secured solely by a covenant of the Authority to budget and appropriate adequate non-ad valorem revenues for the payment therefor.

t. **Ad Valorem Taxes.** This Agreement shall not constitute a general indebtedness secured by ad valorem taxes of the Authority, or any other political subdivision of the State of Florida. No holder of this Agreement shall ever have the right to (i) compel, directly, or indirectly, the exercise of any ad valorem taxing power of the Authority, or any other political subdivision of the State of Florida, or taxation, in any form, of any real property, in either instance, to pay the cost of operation and maintenance of the properties of the Authority or to pay payments hereunder or the interest thereon.

u. **Authority to Execute.** Consultant represents and warrants that it is duly formed and in good standing, and has taken all corporate action necessary to carry out the terms and conditions of this Agreement so that when executed, this Agreement shall constitute a valid and binding obligation enforceable in accordance with its terms. Consultant further represents and warrants that the undersigned officer of Consultant has good corporate power and authority to enter into this Agreement on behalf of Consultant.

v. **Conflict of Terms.** If there is a conflict between the terms and conditions of this Agreement and any Exhibits attached hereto, this Agreement shall prevail.

The parties have executed this Agreement on October 24, 2022 (“**Effective Date**”).

TAMPA PORT AUTHORITY d/b/a Port Tampa Bay, a body politic and corporate organized under and existing by virtue of the laws of the State of Florida

Paul Anderson
A. Paul Anderson,
President & Chief Executive Officer

Approved as to form on October 24, 2022.

Charles Klug
Charles E. Klug
Principal Counsel

“CONSULTANT”

CAPITAL CITY CONSULTING, L.L.C., a Florida limited liability company

Justin Day
Justin Day
Partner

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EXHIBIT "A"

SCOPE OF SERVICES

DESCRIPTION OF SERVICES:

- a. Identify, review and analyze any and all State legislative bills, resolutions, or other matters related to the Florida legislative session affecting, or that may affect, PTB, seaports, freight, trade, transportation, economic development, and inform PTB of these matters.
- b. Develop an overall strategy with staff to ensure issues of concern to PTB are addressed to PTB's satisfaction and demonstrate a keen understanding of PTB priorities, policy objectives, project merits and supporting data.
- c. Develop and implement strategy for the support, opposition, or amendment of pending legislation that may impact PTB, seaports, freight, trade, transportation, economic development.
- d. Work with members of the Legislature, including House and Senate leadership, and the Executive Branch, to ensure their understanding and support of matters of importance to PTB. Work closely with members from the Tampa Bay region and in particular the Hillsborough County Legislative Delegation and the Bay Area Legislative Delegation (BALD).
- e. As needed, work with PTB staff and board to pursue through the legislative process necessary revisions/updates to PTB's Enabling Act.
- f. Work with PTB staff and board to develop special or general legislation, as needed, in keeping with, or supporting of PTB's legislative priorities.
- g. Advocate before the Legislature, Governor, and Cabinet and other appropriate departments/ agencies of State government as necessary on behalf of PTB and seaports. Such efforts are to take place during the annual legislative session, extended, or special session(s), and legislative committee meetings and meetings of the Hillsborough County Legislative Delegation and the BALD and as required/needed during other times of the year.
- h. Appear and testify before state agency hearings, rulemaking proceedings and other administrative agency or legislative meetings, as required, to promote, oppose and seek passage of legislation affecting PTB in association with PTB's legislative priorities.
- i. Upon request, coordinate appointments/meetings between PTB board or PTB staff, and appropriate state officials and legislators.

- j. Provide access to their Tallahassee offices for PTB staff during session.
- k. In addition to effective, regular communication with PTB staff, work in close consultation with appropriate statewide organizations/associations, including the Florida Ports Council, on PTB, seaport, freight, transportation, trade, economic development and related issues.

EXHIBIT "B"

INSURANCE REQUIREMENTS

1.0 GENERAL INSURANCE REQUIREMENTS:

- 1.01 During the Term of the Agreement, the Consultant shall provide, pay for, and maintain with insurance companies satisfactory to the Tampa Port Authority d/b/a Port Tampa Bay ("Authority"), the types of insurance described herein.
- 1.02 All insurance shall be from responsible insurance companies eligible to do business in the State of Florida. The required policies of insurance shall be performable in Hillsborough County, Florida, and shall be construed in accordance with the laws of the State of Florida.
- 1.03 The Authority shall be specifically included as an additional insured on the Consultant's Liability policies with the exception of the Consultant's Professional Liability policies (if required) and shall also provide the "Severability of Interest" provision (a/k/a "Separation of Insured's" provision). Authority's additional insured status should be extended to all Completed Operations coverages.
- 1.04 The Consultant shall deliver to Authority, prior to commencing work/activities under the Agreement, properly executed "Certificate(s) of Insurance" setting forth the insurance coverage and limits required herein. The Certificates must be signed by the authorized representative of the insurance company(s) shown on the Certificate of Insurance. In addition, if requested by Authority, the Consultant shall deliver to Authority certified, true and exact copies of the insurance policies required herein, on a timely basis; provided, however, that the Consultant may redact only portions of the policies which disclose the Consultant's other clients or confidential projects and are unrelated to the activities governed by the Consultant.
- 1.05 If the Consultant fails to provide or maintain the insurance coverages required in this Agreement at any time during the Term of the Agreement and if the Consultant refuses or otherwise neglects to deliver the required Certificate(s) of Insurance signed by the authorized representative of the insurance company(s) to Authority, Authority may, at Authority's sole discretion, terminate or suspend this Agreement and seize the amount of Consultant's performance bond, letter of credit, or other security acceptable to Authority).
- 1.06 The Consultant shall take immediate steps to make up any impairment to any Aggregate Policy Limit upon notification of the impairment. If at any time Authority requests a written statement from the insurance company(s) as to any impairment to the Aggregate Limit, the Consultant shall promptly authorize and have delivered such statement to Authority.
- 1.07 The Consultant authorizes Authority and/or its insurance consultant to confirm all information furnished to Authority, as to its compliance with its Bonds and Insurance Requirements, with the Consultant's insurance agents, brokers, surety, and insurance carriers.
- 1.08 All insurance coverage of the Consultant shall be primary to any insurance or self-insurance program carried by Authority. Authority's insurance or self-insurance programs or coverage shall not be contributory with any insurance required of the Consultant in this Agreement.
- 1.09 The acceptance of delivery to Authority of any Certificate of Insurance evidencing the insurance coverage and limits required in the Agreement does not constitute approval or agreement by Authority that the insurance requirements in the Agreement have been met or that the insurance policies shown in the Certificates of Insurance are in compliance with the Agreement requirements.
- 1.10 No work/activity under this Agreement shall commence or continue unless and until the required Certificate(s) of Insurance are in effect and the written Notice to Proceed is issued by Authority.

- 1.11 The insurance coverage and limits required of the Consultant under this Agreement are designed to meet the minimum requirements of Authority. They are not designed as a recommended insurance program for the Consultant. The Consultant alone shall be responsible for the sufficiency of its own insurance program. Should the Consultant have any question concerning its exposures to loss under this Agreement or the possible insurance coverage needed therefore, it should seek professional assistance.
- 1.12 During the Term of this Agreement, Authority and its agents and contractors may continue to engage in necessary business activities during the operations of the Consultant. No personal property owned by Authority used in connection with these business activities shall be considered by the Consultant's insurance company as being in the care, custody, or control of the Consultant.
- 1.13 Should any of the required insurances specified in this Agreement provide for a deductible, self-insured retention, self-insured amount, or any scheme other than a fully insured program, and the insurance company providing the coverage will not agree in writing to pay the deductible or retention, including the costs of defense as provided for in its policy without consideration of the deductible or retention in the settlement of insured claims, then the Consultant agrees, if required by Authority, to provide, pay for, and maintain a surety bond acceptable to Authority from an insurance company acceptable to Authority (or a standby irrevocable Letter of Credit acceptable to Authority) in the amount of the deductible or retention, guaranteeing payment of the deductible or retention. Said guarantee is to continue for four (4) years following expiration or termination of the Agreement.
- 1.14 All of the required insurance coverages shall be issued as required by law and shall be endorsed, where necessary, to comply with the minimum requirements contained herein.
- 1.15 All policies of insurance required herein shall require that the insurer give Authority thirty (30) days advance written notice of any cancellation, intent not to renew any policy and/or any change that will reduce the insurance coverage required in this Agreement, except for the application of the Aggregate Limits Provisions. Such notice shall be delivered by certified or registered mail and shall be given to:

Tampa Port Authority
1101 Channelside Dr.
Tampa, Florida 33602-3612
Attn: Risk Management Department

- 1.16 Renewal Certificate(s) of Insurance shall be provided to Authority at least twenty (20) days prior to expiration of current coverage so that there shall be no termination of the Agreement due to lack of proof of the insurance coverage required of the Consultant.
- 1.17 If the Consultant utilizes contractors or sub-contractors to perform any operations or activities governed by this Agreement, the Consultant will ensure all contractors and sub-contractors to maintain the same types and amounts of insurance required of the Consultant. In addition, the Consultant will ensure that the contractor and sub-contractor insurances comply with all of the Insurance Requirements specified for the Consultant contained within this Agreement. The Consultant shall obtain Certificates of Insurance comparable to those required of the Consultant from all contractors and sub-contractors. Such Certificates of Insurances shall be presented to Authority upon request. Consultant's obligation to ensure that all contractor's and sub-contractor's insurance as provided herein shall not exculpate Consultant from the direct primary responsibility Consultant has to Authority hereunder. Authority may look directly to Consultant for any such liability hereunder and shall not be obligated to seek recovery from any contractor or subcontractor or under such contractor's or sub-contract's insurance coverages.

2.0 **SPECIFIC INSURANCE COVERAGES AND LIMITS:**

- 2.01 All requirements in this Insurance Section shall be complied with in full by the Consultant unless excused from compliance in writing by Authority.
- 2.02 The amounts and types of insurance must conform to the following minimum requirements. Current Insurance Service Office (ISO) or National Council on Compensation Insurance (NCCI) policies, forms, and endorsements or broader shall be used where applicable. Notwithstanding the foregoing, the wording of all policies, forms, and endorsements must be acceptable to Authority.

Workers' Compensation and Employers' Liability Insurance shall be maintained in force during the Term of this Agreement for all employees engaged in this work under this Agreement, in accordance with the laws of the State of Florida. The minimum acceptable limits shall be:

Workers' Compensation	Florida Statutory Requirements
Employer's Liability	\$1,000,000.00 Limit Each Accident
	\$1,000,000.00 Limit Disease Aggregate
	\$1,000,000.00 Limit Disease Each Employee

If the Consultant has less than four (4) employees and has elected not to purchase Workers' Compensation/Employers Liability coverage as permitted by *Florida Statutes*, the Consultant will be required to issue a formal letter (on the Consultant's letterhead) stating that it has less than four (4) employees and has elected not to purchase Workers' Compensation/Employers Liability coverage as permitted by *Florida Statutes*. This exception does **not** apply to firms engaged in construction activities.

Commercial General Liability Insurance shall be maintained by the Consultant on a Full Occurrence Form. Coverage shall include, but not be limited to, Premises and Operations, Personal Injury, Contractual for this Agreement, Independent Contractors, and Products & Completed Operations Coverage. The limits of such coverage shall not be less than:

Bodily Injury & Property Damage Liability	\$2,000,000.00 Combined Single Limit each Occurrence and Aggregate
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Completed Operations Liability Coverage shall be maintained by the Consultant for a period of not less than four (4) years following expiration or termination of this Agreement.

The use of an Excess, Umbrella and/or Bumbershoot policy shall be acceptable if the level of protection provided by the Excess, Umbrella and/or Bumbershoot policy is equal to or more comprehensive than the Primary Commercial General Liability policy.

Business Automobile Liability Insurance shall be maintained by the Consultant as to ownership, maintenance, use, loading and unloading of all owned, non-owned, leased, or hired vehicles with limits of such coverage of not less than:

Bodily Injury	\$1,000,000.00 Limit Each Accident
Property Damage Liability	\$1,000,000.00 Limit Each Accident

or

Bodily Injury & Property Damage Liability	\$1,000,000.00 Combined Single Limit Each Accident
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If the Consultant does not own any vehicles, this requirement can be satisfied by having the Consultant's Commercial General Liability policy endorsed with "Non-Owned and Hired Automobile" Liability coverage.

Professional Liability Insurance shall be maintained by the Consultant which will respond to damages resulting from any claim arising out of the performance of professional services or any error or omission of the Consultant arising out of activities governed by this Agreement. The minimum acceptable limits of liability shall be \$1,000,000 per Occurrence and \$2,000,000 Annual Aggregate. If the policy is structured on a "Claims Made" basis, the policy must contain a "Retroactive Date" of no later than the commencement date of the Agreement and will have an extended reporting period of four (4) years following expiration or termination of the Agreement.