



Buffalo & Fort Erie Public Bridge Authority

*Request for Proposals for
Construction Inspection Services*

Pre-Arrival Readiness Evaluation (PARE) 3.0

*100 Queen Street
Fort Erie, Ontario L2A 3S6*

Date Issued: April 2, 2024

Submission Deadline: April 24, 2024 @ 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 to hire an engineering team to perform Construction Inspection services as assigned in connection with the Authority’s **Pre-Arrival Readiness (PARE) 3.0 Project**. The team will contract directly with the Authority, but will interface as required with other contractors and consultants.

B. Restrictions on Communications

From the date this Request for Proposals (RFP) is issued until the contract award has been announced, no proposer-initiated contact with any Authority official shall be permitted regarding this RFP, other than written inquiries, as described in this section. This 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. Inquires

There will be an opportunity available for submission of written questions. All questions or requests for clarification regarding this RFP must be submitted via email and must come from one point of contact per company to Thomas A. Boyle at tab@peacebridge.com, no later than the date and time noted in **Part IV**. Questions or requests for clarification received after such time and date will not receive a response from the Authority. All questions and requests for clarification will be answered via email no later than the date and time noted in **Part IV**.

*All firms considering to respond to this RFP **MUST** contact the Authority at the email above during the proposal period in order to receive updates on the Project or Responses to Inquiries. Failure of any firm to do so is the sole responsibility of the firm and **DOES NOT** obligate or form liability to the Authority in any way.*

D. Responses to Requests for Proposal

Respondents must submit their Responses to this RFP to the Authority no later than the date and time specified in **Part IV** in the manner, and with the documents and information, specified in **Part V** of this RFP.

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

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

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 to all consultants that provided contact information as requested.

F. Requirements

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

To be considered, proposals (hardcopy and electronic) must be received by Thomas A. Boyle, Chief Operating Officer, 100 Queen Street, Fort Erie, ON L2A3S6. The Authority reserves the right to reject any or all proposals submitted.

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. Firms submitting proposals may be requested to make oral presentations as part of the evaluation process.

The Authority reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the Authority and the firm selected.

All qualified applicants 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 proposals.

II. DESCRIPTION OF THE AUTHORITY

A. Name of Contact Person

The principal contact with the Buffalo & Fort Erie Public Bridge Authority will be Thomas A. Boyle P.E., Chief Operating Officer, who will coordinate the assistance to be provided by the Authority.

B. General Information

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.

The Authority's principal asset and source of revenue is the Peace Bridge, a major international toll crossing spanning the Niagara River between Fort Erie, Ontario, and Buffalo, New York. The Authority also derives significant revenues in the form of rental and fee income from the United States Bureau of Customs and Border Protection, Public Works and Government Services Canada, United States and Canadian duty-free shops, and commercial brokers operating on the property owned by the Authority and from leases of communication conduits spanning the Peace Bridge.

The Authority is authorized under its legislation to establish and collect such tolls and charges as are necessary to produce at all times sufficient revenues to meet its expenses of maintenance and operation, to pay, as the same shall become due, the principal of and interest on bonds of the Authority, and to fulfill the terms of any agreement made with the holders of the bonds until such bonds and the interest thereon are fully met and discharged.

III. SCOPE OF SERVICES

A. Summary

The Authority is seeking to hire an engineering team (Consultant) to perform Construction Inspection services as assigned in connection with the Authority's **Pre-Arrival Readiness (PARE) 3.0 Project** (Project). The team will contract directly with the Authority, but will interface as required with other contractors.

The Construction Project consists of work to be performed on the Canadian Plaza adjacent to the Peace Bridge ("Bridge") that connects Fort Erie, Ontario, Canada and Buffalo, New York. The Work to be performed under the Contract generally includes, but will not be limited to the following:

- Construction of a new steel framed truck canopy
- Partial demolition and full infill of the existing "East Vault" and adjacent vault areas.
- Construction of new reinforced concrete shield walls for a multi-energy portal (MEP) equipment.
- Construction of a new prefabricated concrete mechanical outbuilding and foundation to support the MEP equipment.
- Electrical and communications equipment to support the MEP installation.
- Electrical and minor structural upgrades to the West Bridge abutment vaults.
- Upgrades to site lighting including relocation and new site lighting poles, luminaires, wiring, and foundations.
- Installation of variable message signs on the Duty-Free canopy, the Central Avenue Bridge, and the new truck inspection canopy.
- Demolition of the existing salt storage shelter & foundations, and construction of a new, prefabricated steel framed replacement, including new foundations and utility connections for water, gas, drainage, and power.
- Civil site improvements including removals, grading, drainage, hydrant, fencing, gates, signage, concrete works, concrete pavement and hot mix paving.

The Consultant will, in summary, be responsible for the following services:

- **Resident Engineering/Contract Administration and Inspection Services** for all items of work contained in the subject Construction Contract. This will include, but not be limited to, such elements as: supplying a full time Professional Engineer licensed in the State of New York and/or the Province of Ontario to act as the Engineer-in-Charge, supplying sufficient Inspection Personnel to perform services at an intensity level normally associated with this type of project, and supplying any additional personnel deemed necessary for the proper inspection of the project.
- **Material Testing Services** in accordance with the Standard Procedures of the Provincial Standard Specifications of the Ministry of Transportation Ontario will be required.
- **Finalization Services** in accordance with the provisions of the contract, including submission of final payment package and final project records.

I. General Requirements

- The Consultant shall provide continuous resident engineering and inspection services and

testing of materials services, with a staff commensurate with the level of construction activity until completion and final acceptance of the Construction Contract work. In the event of a work stoppage or a summer shutdown, or as the situation warrants, the Consultant shall reduce his/her work force appropriately or as directed by the Authority.

- The Consultant agrees to provide, to the satisfaction of the Authority, all necessary Resident Engineering/Contract Administration and Inspection Services, and such testing of materials as may be required in connection with the actual construction of the project, which includes all general construction and incidental work, such that the completed construction conforms to the plans, specifications, and requirements of the contract and to good construction practice.
- All office diaries, consultants' and inspectors' diaries, daily records of labor, materials and equipment used, notes, designs, reports including laboratory and plant inspection reports, drawings, tracings, estimates and specifications prepared and furnished by the Consultant shall become the property of the Authority upon their approval and acceptance in writing. The Consultant shall deliver to the Authority all said diaries, daily records of labor, material and equipment used, notes, designs, reports, drawings, tracings, estimates and specifications, which there-after the Authority may utilize in whole or in part or in modified form and in such manner or for such purposes or as many times as it may deem advisable, without employment of or additional compensation to the Consultant.

The Consultant specifically agrees that: (a) his/her subconsultants, agents or employees shall possess the experience, knowledge, and character necessary to qualify them individually for the particular duties they perform (b) the firm shall not subcontract more than 49% of the contract work; (c) he/she will comply with the provisions of all local labor laws, ordinances and regulations that are applicable to the performance of the Agreement; and (d) he/she will secure all licenses and permits, if any, that are necessary for the performance of his/her duties under this contract. In fulfillment of provision (a) above, the Consultant shall submit a resume for each employee prior to assignment to the contract, for review and approval by the Authority. The Resident Engineer/Contract Administrator shall be properly licensed to practice in the State of New York and/or the Province of Ontario with at least two years of experience as a Resident Engineer/Contract Administrator. The remainder of the Consultant staff who perform any work pursuant to this contract shall be appropriately qualified.

II. Resident Engineering/Contract Administration and Inspection Services

- The Consultant shall be the representative of the Authority at the site and, subject to review by the Authority or his/her duly authorized representative, shall have the power, in the first instance, to inspect the performance of the work.
- The Consultant agrees that he/she will endeavor to safeguard the Authority against deficits and deficiencies in the work and that he/she will use reasonable care and reasonable powers of observation and detection in determining that the work conforms to the Construction Contract documents.
- It is the responsibility of the Construction Contractor(s), and not the responsibility of the Consultant, to determine the "Means and Methods of Construction". However, if the Consultant reasonably believes that the means and methods of construction proposed by the Construction Contractor(s) will constitute or create a hazard to the work, or to the persons or property, or will not produce finished work in accordance with the terms of the

Construction Contract, such means and methods must be reported to the Authority, or to his/her duly authorized representative.

- It shall be the responsibility of the Construction Contractor(s) to accomplish the work in accordance with the pre-established construction schedules. The Consultant, however, shall advise the Authority or his/her duly authorized representative when a Construction Contractor's progress falls behind the pre-established and approved construction schedule.
- The Consultant shall review the adequacy of the Construction Contractor's personnel and equipment and the availability of his/her necessary materials and supplies. Special attention shall be directed to the Construction Contractor's adherence to the construction progress schedule prepared by the Contractor.

B. Services to Be Performed

I. Resident Engineering/Contract Administration and Inspection Services

The Consultant shall provide to the satisfaction of the Authority, basic Resident Engineering/Contract Administration and Inspection Services for all items of work under the Construction Contract from the date the Consultant is ordered to commence work to the completion of the Construction Contractor's operations, and the acceptance of the work under the Construction Contract by the Authority. These services are to include monitoring of the Construction Contractor's activities for conformance with the contract documents, coordination with City/Town and State/Provincial agencies and public and private utilities, and monitoring the condition of the contract site for conformance with the contract documents, so as to provide a safe environment for both workers and the general public. These services shall include, but not be limited to, the following:

1. Supervise the erection of structures necessary to protect the public during the construction operations.
2. Check detour and maintenance of traffic routes on a regular basis to insure compliance by the Construction Contractor.
3. Spot check, for accuracy, Survey and Stake-out performed by the Construction Contractor.
4. Be responsible for all field measurements, computations and sketches necessary for payment purposes. The final payment package shall be submitted to the Authority within one (1) month of the date of final inspection of the Construction Contract.
5. Check the Construction Contractor's layout and concrete form work for correctness, including line and grade.
6. Check placement of all steel reinforcement and structural steel for structures.
7. Notify the Authority of any anticipated delays in fabrication, erection or construction.
8. Check the removal, installation and reinstallation of all signs, including the fastening of chains from sign structures.
9. Check layout of conduits, pipes, gas mains, water mains, electrical conduit and lighting equipment, and other miscellaneous structures.
10. Check all electrical wiring, permanent or temporary, for compliance with the plans and specifications.
11. Check the performance of excavation, and compliance with safety standards for sheeting.

12. Check the placement of concrete, structural concrete and asphalt pavements.
13. Check the painting of steel structures, if applicable.
14. Prepare and certify all estimates for payment, including extra or additional work, computations, payment vouchers, monthly progress reports, and material balances.
15. Prepare reports, including recommendations for additional or extra work which shall include exact records of labor, equipment and materials relative to the extra or additional work, which shall be subject to the approval of the Authority, prior to the issuance of said reports.
16. Prepare all reports as requested by the Authority and/or his/her duly authorized representative.
17. Prepare reports in a form suitable for transmission to the Authority on claims made during the course of the work and within one year after completion and final acceptance of the work.
18. Prepare all replies to the Contractor's letters and complaints for the signature of the Authority and/or his/her duly authorized representative.
19. Furnish assistance and aid to start and advance the work, such as conferences with interested City/Town and State/Provincial agencies and other parties, when requested.
20. Interpret the contract drawings and add explanatory information consistent with the contract documents.
21. Substantiate the quality and check the placement of all pre-cast prestressed structural elements when they are to be used on the project.
22. Obtain all required Manufacturer's Certificates as required under the Construction Contract.
23. Perform the detailed inspection work and field tests of all materials and items of work.
24. Establish and maintain project accounts in accordance with all applicable Directives and good accounting practices.
25. The Consultant shall evaluate the performance of the prime construction contractors on this project.
26. Check and approve all record ("as-built") drawings.
27. Prepare and maintain all project records in accordance with the requirements of the New York State Department of Transportation "Manual for Uniform Record Keeping" (MURK) and/or the Ministry of Transportation Ontario "Construction Administration and Inspection Task Manual".
28. The Authority or his/her duly authorized representative will make all final determinations regarding structure related plan changes, modifications and additions to the contract.
29. The Consultant will process for approval all shop drawings, request for information, field change requests and/or catalog cuts. The Consultant will log and track submission of those to the designated Construction Support Services consultant.
30. The Consultant shall attend liaison, progress, coordination and other such meetings held during the progress of the contract.
31. The Consultant shall inspect the maintenance and protection of traffic operations regularly entering his/her observation in the Consultants Diary, and shall review and evaluate contractor proposals and make recommendations to the Authority.
32. The Consultant shall maintain the schedule for the project, process contractor-supplied data, analyze and evaluate the results. He/she shall advise the Authority to take all

- necessary actions to the extent feasible to ensure that the project schedule is met.
33. When required by the Authority, the Consultant shall inspect, review and evaluate the contractor's proposals for handling and disposal of hazardous waste materials.
 34. The Consultant shall provide offsite plant inspection of fabricated and/or raw materials used on this project, as directed by the Authority. To insure conformance with the material specifications of the construction contract, the Consultant shall review all inspection reports and test results and make recommendations for acceptance or rejection.
 35. The Resident Engineer/Contract Administrator shall act as the Authority's representative at the project site.
 36. The Consultant shall prepare, furnish, index and electronic copy complete sets of accurate shop, working and record as-built drawings, catalog sheets, technical bulletins, manuals, diagrams, other printed matter, etc., as required, which shall show the work as actually installed.

II. Material Testing Services

The Consultant shall retain, in accordance with all New York State Department of Transportation and/or Ministry of Transportation Ontario rules and regulations in connection with retaining services other than Professional Engineering, the services of a qualified laboratory to provide detailed testing for all materials. In no event however, shall the Consultant utilize the services of the laboratory without prior written authorization by the Authority or his/her duly authorized representative.

III. Finalization Services

For Finalization Services, the Consultant shall prepare and submit, in accordance with the directions of the Authority, the final payment package; and shall compile and submit to the Authority all final project records including all reports (including laboratory and plant testing reports), manufacturer's certificates, survey field books, inspector's reports, monthly and final estimate records, "as-built" drawings (including electronic copy and indexing) conforming to New York State Department of Transportation and/or Ministry of Transportation Ontario standards showing all changes from contract plans and other pertinent data, photographs of various phases of construction (to be supplied by the Construction Contractor), and all other data which may be required for the proper completion and records of the construction contract.

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	April 2, 2024
Inquiries Due	April 17, 2024 @ 1:00 PM
Responses to Inquires Issued	April 19, 2024 @ 5:00 PM
Proposals Due	April 24, 2024 @ 1:00 PM
Interviews (at Authority's discretion)	April 25, 2024
Notice of Award	April 29, 2024

The successful firm must be prepared to commence performance for the services described herein upon Notice of Award.

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 by the date and time noted in **Part IV** via e-mail to:

tab@peacebridge.com

All questions and answers will be circulated to all potential respondents via email by the date and time noted in **Part IV**.

Contact with personnel of the Authority other than that named above regarding this RFP may be grounds for elimination from the selection process.

2. **Addenda: Errors and Omissions** - Proposers 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 as specified in **Part I, Section C**.

If a proposer fails to notify the Authority prior to the due date for proposals, of a known error or an error that reasonably should have been known, the proposer assumes all risk. If awarded the contract, the proposer 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 received by the date and time noted in **Part IV** for a proposing firm to be considered:

a. Proposal shall 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 proposal.
- (ii) *Table of Contents*
- (iii) *Transmittal Letter* – A signed letter of transmittal briefly stating the proposer'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 proposal 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 proposal. An unsigned proposal will be rejected.
- (iv) *Non-collusive Proposal Certification* – The proposer must provide a signed statement certifying the following:
 - o the proposal is genuine and is not made in the interest of, or on behalf of, an undisclosed person, firm or corporation;

- that the proposer has not directly or indirectly induced or solicited any other proposer to submit a false or sham proposal, or decline to submit a proposal;
 - that the proposer has not sought, by collusion, to obtain any advantage over any other proposer or over the Authority.
- (v) *Detailed Proposal* – The detailed proposal should follow the order set forth in Section V. B. of this request for proposals.
- (vi) *Cost Bid* –The cost bid should follow the order set forth in Section V.C. of this request for proposals.
- (vii) Proposers should send the completed proposal to the following address:

BUFFALO & FORT ERIE PUBLIC BRIDGE AUTHORITY

**Attn: Thomas A. Boyle PE, Chief Operating Officer
1 Peace Bridge Plaza, Buffalo, NY 14213 -or-
100 Queen Street, Fort Erie, Ontario L2A 3S6**

If by electronic mail: tab@peacebridge.com

The Authority shall not be obligated or held liable for any proposal undelivered or lost in the mail. Respondents shall be responsible to confirm delivery to the Authority by the required time and date as specified in this RFP.

B. Proposal

- 1. General Requirements** – The purpose of the proposal is to demonstrate the qualifications, competence and capacity of the firm 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 firm 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 proposer’s capabilities to satisfy the requirements of the request for proposals. While additional data may be presented, the following subjects, item Nos. 2 through 15, must be included. They represent the criteria against which the proposal will be evaluated. Responses are limited to fifteen (15) pages, excluding the title page, table of contents, transmittal letter, non-collusive proposal certificate and cost bid, and requested resumes, prepared as single-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** – The firm should provide an affirmative statement that it is independent of the Authority and that the firm and its staff 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.

3. **Scope of Work** – The firm should provide an affirmative statement that the proposal includes all services noted within Section III of this proposal.
4. **Licensed to Practice** – The firm should provide an affirmative statement that the project Resident Engineer/Contract Administrator and Project Manager or project principal assigned are properly licensed to practice in the State of New York and/or the Province of Ontario.
5. **Disciplinary Actions** – The firm should provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past five (5) years with federal, state regulatory bodies or professional organizations.
6. **Firm Qualifications and Experience** – The proposer should include the following information:
 - a. Firm name, location of firm headquarters, location of office from which services would be rendered to the Authority.
 - b. Description of the firm, 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 engagements for Construction Inspection Services for the last five (5) years and include information in the following format:
 - i. Name of client
 - ii. Number of years serving this client
 - iii. Name of partner(s) in charge of this client
 - iv. Brief description of services provided
 - d. Describe your firm’s service standards, how they are measured, and how service issues are reviewed.
7. **Experience of Resident/Contract Administrator, Project Manager and Key Staff -**
The proposer should identify the Resident Engineer/Contract Administrator, Project Manager and key staff for the assignment and detail the following:
 - a. General qualifications: general education, training, length of experience, positions held, time with firm, and so forth.
 - b. Adequacy for assignment: experience in specific sector or field.
 - c. Experience in cross border traffic and toll bridge traffic.
 - d. Experience in region: knowledge of local issues.
 - e. Provide resumes for key professional staff who would be assigned to this engagement.

8. **Similar Project Experience** – The firm should describe the nature and scope of similar projects managed by the proposed Resident Engineer/Contract Administrator and Project Manager.
9. **Prior Engagements with the Buffalo & Fort Erie Public Bridge Authority** (*if any – this is not a prerequisite for award*) – List separately all engagements within the last ten (10) years, with the Authority by type of engagement. Indicate the scope of work, date, the location of the firm’s office from which the engagement was performed, and the name and telephone number of the principal contact.
10. **Similar Engagements with other Entities** – For the firm’s personnel that will be assigned responsibility for this service, list the most significant engagements (maximum of 5) performed in the last five (5) years that are similar to the engagement described in this request for proposal. Indicate the scope of work, dates and duration of service and the name and telephone number of the principal client contact. From these engagements, provide at least three (3) references containing contact name, address and telephone number.
11. **Value-Added Services** – The proposer should identify and describe services offered which may add value (i.e., decrease cost, increase efficiency, etc.) to the Authority.
12. **Distinguishing Features** – The proposer should identify and describe the most important attributes that distinguish your firm from competing firms, and how those attributes will benefit the Authority.
13. **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.

C. Cost Bid

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 Firm.
- b. Certification that the person signing the proposal is entitled to represent the firm, empowered to submit the bid, and authorized to sign a contract with the Authority.
- c. Please provide examples of fees that you have charged on similar recent contracts.
- d. Describe proposed measures to reduce the costs of services, while maintaining high quality services.

- e. Supply proposed staff rate sheet. Rate sheets shall detail hourly rates for the various technical classifications of workers and identify specific personnel. Also include with the rate sheet a salary multiplier that includes a breakdown of overhead, profit, and types of expenses.
- f. Submit a more detailed project specific cost proposal to include total, all-inclusive costs for the Resident Engineer/Contract Administrator, Project Manager, Construction Engineering staff, and supplemental inspection staff as required. Basis of cost proposal should be the following:
 - Six (6) day work week, Monday – Saturday,
 - Standard construction hours 0700 – 1500, although Contractor may choose different work hours.
 - Assume no overnight work, however identify overnight and overtime rate premiums in Item 1.e above.
 - Assume minimum coverage by one (1) staff at all times based upon above.
 - Travel expenses and travel time to work site shall not be paid by the Authority.

2. **Out-of-Pocket Expenses** – Enumerate typical out-of-pocket expenses for the proposed engagement.

VI. EVALUATION PROCEDURES

A. Review of Proposals

Firms with unacceptably low technical qualifications will be eliminated from further consideration.

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

The Authority reserves the right to retain all proposals submitted and use any idea in a proposal regardless of whether that proposal is selected.

B. Evaluation Criteria

Proposals will be evaluated using three sets of criteria. Firms meeting the mandatory criteria will have their proposals 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 firm is independent and has no conflict of interest with regard to any other work performed by the firm for the Authority, and is licensed to practice in the Province of Ontario.
- b. The firm adequately addresses actual and pending disciplinary actions and has a record of quality work.
- c. The firm adheres to the instructions in this request for proposal on preparing and submitting the proposal.

2. Technical Quality

- a. Expertise and Experience
 - (i) The firm's qualifications and past experience and performance on similar engagements.
 - (ii) Resident Engineer/Contract Administrator, Project Manager and key staff qualifications and past experience and performance on similar engagements, particularly cross border traffic and toll bridge traffic engagements.
 - (iii) The firm'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 Construction Inspection Services, however, it will be considered when evaluating the overall value of the proposal. The Authority is not obligated to accept the lowest fee proposal.

C. Oral Presentations

During the evaluation process, the Authority may elect to have firms deliver oral presentations. Such presentations will provide firms with an opportunity to answer any questions that the Authority may have on a firm's proposal. Presentations, if any, will be requested by the Authority.

D. Final Selection

It is anticipated that a firm will be selected by the date noted in Section IV – Time Requirements. Following notification of the firm selected, it is expected that a contract will be executed between both parties shortly thereafter.

The Authority reserves the right to enter into negotiations with any proposer 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 proposer.

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

E. Right to Reject Proposals

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

As specifically endorsed by the Authority Board of Directors, contact with personnel of the Authority other than Anthony D. Braunscheidel, Operations & Facilities Manager, will result in automatic rejection of a proposal.

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

VII. FORM OF AGREEMENT

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

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 Small Claims Court of the Superior Court of Justice, at Welland, Ontario 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

1. 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.
2. 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.

3. 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.

4. 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

1. 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.
2. 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.
3. 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.
4. 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:

- 1.** 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;
- 2.** 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;
- 3.** 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;
- 4.** 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;
- 5.** reject or disqualify all or any Responses or Respondents; and
- 6.** 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:

- 1.** 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
- 2.** 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:

3. fails to comply with any requirement prescribed by the Authority pursuant to this Clause H; or
4. 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 Clause 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:

1. contains any false or misleading information; or
2. 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

1. 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.

- 2.** 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.
- 3.** 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.
- 4.** 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.
- 5.** 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.

6. 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 Clause 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

1. 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 Clause M, or (c) the Respondent is not pre-qualified and joins a Respondent that has been pre-qualified in accordance with this Clause M.
2. 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.
3. 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 Clause M, and requires the approval of the Authority.

APPENDIX A

AUTHORITY / ENGINEER FORM OF AGREEMENT

AUTHORITY / ENGINEER 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 **Resident Engineering and Inspection** 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. Assist in traffic control if plaza traffic is impacting the contractor's operations.

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, Provincial, 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 determined 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 twenty-five thousand dollars (\$25,000.00) or less the dispute shall be determined in the Small Claims Court of the Superior Court of Justice, at Welland, Ontario provided this court has the requisite jurisdiction;
- b) If the dispute or matter concerns an amount in controversy (or an alleged amount in controversy) having a value in the aggregate of more than twenty-five thousand dollars (\$25,000.00), or the Small Claims Court of the Superior Court of Justice, at Welland, Ontario does not have the requisite jurisdiction, the dispute shall be determined by arbitration in Fort Erie, Ontario or such other location as the parties to the dispute agree:
 - (i) Either party may give written notice to the other of its desire to arbitrate such dispute and shall in such written notice give notice of the appointment of an arbitrator chosen by the party giving such notice. The party receiving such notice shall within fifteen (15) days after the receipt thereof give a written notice to the party giving the first notice of appointment of an arbitrator chosen by the party giving the second notice. The two arbitrators so chosen shall jointly appoint a third arbitrator;
 - (ii) If a party required to appoint an arbitrator shall fail to do so within such period of fifteen (15) days, or if each party has appointed an arbitrator and such arbitrators fail to agree upon a third arbitrator within fifteen (15) days after both have been appointed, then any party not in default in so appointing may apply to the Ontario Superior Court of Justice (the "Court") for the appointment of an arbitrator on behalf of the party in default, or the appointment of the third arbitrator, as the case may require;
 - (iii) The arbitrators shall elect a chair from among themselves. The arbitrators shall have the powers as set out in the provisions of the Arbitrations Act S.O. 1991 c 17 ("Arbitrations Act");
 - (iv) Each party shall bear the fees and expenses of the arbitrator that party selects or has been selected for that party by the Court. The fees and expenses of the third arbitrator shall be divided equally between the parties and each party shall bear its equal share. All other fees and expenses shall be borne in such manner as the arbitrators may determine;
 - (v) The three (3) arbitrators so appointed shall determine the dispute. The arbitration shall be conducted in accordance with the provisions of the laws of Ontario, pertaining to arbitration

including the provisions of the Arbitrations Act. The decision of the majority of the arbitrators shall be final and binding on the issue or issues submitted to arbitration; however, if there is no majority decision, the Chair's decision governs. No party may appeal the arbitrators' decision to the Court unless it relates to a question of law. Any appeal on a question of law shall be in accordance with section 45 of the Arbitrations Act or its successor legislation.

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 Province of Ontario, 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 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: _____

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 CERTIFICATES OF INSURANCE

APPENDIX B

PRE-ARRIVAL READINESS EVALUATION (PARE) 3.0 PROJECT ISSUE-FOR-BID DOCUMENTS FOR CONSTRUCTION

Information concerning the construction project, scope of work, limits of work, timeframe of work and all other pertinent information regarding the works overseen by the Resident Engineer and Inspectors can be found in the documents on the Peace Bridge website at:

<https://www.peacebridge.com/index.php/vendors-employment/requests-for-proposals>