

Project: North Cove Cellular Steel Sheet Pile Encasement **Date:** 11/3/15

Engineer: McLaren Engineering Group **RE:** Addendum #1
of Pages: 6 pages

The following revisions and/or clarifications are to be made to the Request for Proposals for “North Cove Cellular Steel Sheet Pile Encasement.” They are a result of issues discussed at the pre-proposal conference held on October 28, 2015, inquiries made by prospective proposers and additional requirements imposed by BPCA.

Clarifications:

1. The opportunity to conduct diving inspections of the sheet piles to be repaired will be offered to prospective proposers on November 6 or 9, 2015. Arrangements must be made in advance by contacting BPCA’s designated contact, Michael LaMancusa no later than November 5 at 3:00 PM. A properly executed form of Waiver and Release and Pre-Proposal Inspection Requirements (attached hereto), along with a valid certificate of insurance reflecting the required insurance coverages, must be submitted to BPCA no later than 3:00 PM on the day prior to the arranged diving inspection.
2. The deadline for the submission of questions is extended to November 10, 2015 at 3:00 PM, and the deadline for BPCA’s posting of responses to questions is extended to November 12, 2015 at 12:00 Noon.
3. The 533 lf (linear feet) shown in the contract drawings reflects the length including the arch of the steel sheet piles. The scope of work is for approximately 400 lf of forms to be installed in a straight line.
4. Special inspections will fall under the construction manager’s contract.

By signing the line below, I am acknowledging that all pages of the addendum have been received reviewed and understood, and will be incorporated into the bid price submitted. This document must be attached to the proposal for consideration.

Print Name Signature Date
Number of pages received: _____ <fill in>

Assumption of Risk, Waiver of Liability and Release
(“Waiver and Release”)

PLEASE READ THIS DOCUMENT CAREFULLY - IT AFFECTS YOUR RIGHTS

The undersigned desires to perform an underwater inspection of the conditions attendant to the work contemplated in the North Cove Cellular Steel Sheet Pile Encasement Project RFP (the “RFP”), issued by the Battery Park City Authority d/b/a Hugh L. Carey Battery Park City Authority (the “Authority”) on or about October 23, 2015. The RFP contemplates certain work to be performed to encase cellular sheet piles located under segments of the relieving platform along the southern edge of the North Cove Marina (the “Project Site”) in Battery Park City. The undersigned has been advised and understands that the inspection of the Project Site, including areas located under water, can be dangerous and involve numerous risks, including death or serious bodily injury. As an inducement to the Authority, the Battery Park City Parks Conservancy (the “Conservancy”), the City of New York, the State of New York, Brookfield Properties and all firms and persons related to, or involved in, the design, construction and development of the Project Site in Battery Park City (the “Project Team”) to allow the undersigned to visit the Project Site and observe existing conditions underwater, the undersigned, for himself/herself/itself and his/her/its successors, heirs, assigns, and legal representatives, does hereby expressly agree and acknowledge the following:

1. The undersigned hereby voluntarily assumes any and all risks involved in, or in any way related to, the undersigned’s visit (including the visit of any of its employees, agents or representatives) to the Project Site and observation of existing conditions underwater, including, but not limited to, the risk of death, bodily injury or property damage resulting from such visit or observation, including the unavailability of emergency medical care or the negligent or deliberate acts of other persons.
2. The undersigned releases and forever discharges any and all members of the Project Team, together with their members, directors, managers, officers, employees, agents, affiliates, successors, heirs and assigns, from, and agrees not to sue them on account of or in connection with, any liabilities, claims, causes of action, suits, obligations, injuries, damages, judgments, costs, or expenses, including attorney’s fees and disbursements, arising out of the undersigned’s visit (including the visit of any of its employees, agents or representatives) to the Project Site and observation of existing underwater conditions, including, not limited to, those based on death, bodily injury, or property damage, except when caused solely by the gross negligence of any member of the Project Team. **THE FORGOING RELEASE IS INTENDED TO BE THE MAXIMUM AND BROADEST RELEASE PERMITTED BY LAW.**
3. The undersigned waives the protection afforded by any statute or law in any jurisdiction whose purpose, substance and/or effect is to provide that a general release does not extend to claims which the person giving the release does not know or suspect to exist at the time of executing the release.

4. The undersigned agrees to indemnify and hold harmless any and all members of the Project Team and their members, directors, managers, officers, employees, agents, affiliates, successors, heirs and assigns, to the fullest extent permitted by law, from and against any and all liabilities, claims, causes of action, suits, obligations, injuries, damages, judgments, costs or expenses, including reasonable attorney's fees and disbursements, which arise in any way from the undersigned's conduct (including the conduct of any of its employees, agents or representatives) at the Project Site and any and all damages to property on such Project Site, injury to any other person at such Project Site, including areas located underwater, caused, directly or indirectly, by the undersigned, whether by inadvertence, negligence, willful misconduct or otherwise.
5. The undersigned acknowledges and agrees that he/she/it is familiar with and understands industry standard safety procedures and rules for conducting an underwater inspection of the Project Site and for observing conditions at the Project Site. The undersigned agrees to strictly abide by all safety and other rules and expressly agrees not to participate in any events at the Project Site under the influence of alcohol and/or any drugs.
6. The undersigned acknowledges and agrees that he/she/it has been advised of the following nonexclusive list of potentially dangerous conditions: (1) the inherent risks associated with the nature of the inspection activity itself; (2) potential general structural instability; and (3) the inherent risks associated with property undergoing condition inspection work.
7. The undersigned represents and warrants that he/she/it (a) assumes full responsibility for his/her/its own safety and health and for all known and unknown risks and damages in visiting the Project Site, and (b) has not relied on information given or not given to him/her/it by the Project Team regarding the risks or dangers present at the Site.
8. The undersigned acknowledges and agrees that he/she/it has been advised of, and understands, the rules for visiting the Project Site, including, but not limited to, complying fully with the Pre-Proposal Inspection Requirements, attached hereto and made a part hereof.
9. The undersigned further agrees not to disclose or divulge to any person in any manner, without the prior written approval of the Authority, any information concerning the Project for any purpose whatsoever, except as may be necessary to prepare and submit a proposal in response to the RFPs.
10. The undersigned agrees that in the event of any accident which may require immediate medical, dental or other emergency care, transportation and emergency medical services, in which no next of kin can be notified in a reasonable amount of time through reasonable means, the Authority is hereby authorized, but not required, to take all necessary actions as relates to immediate medical, dental or other emergency care, transportation and emergency medical services as warranted in the course of care of the undersigned. The undersigned agrees that he/she/it shall be responsible for all fees and expenses as they relate to this paragraph.

The undersigned has read this Waiver and Release, understands that by making this Waiver and Release, he/she/it surrenders valuable rights and does do so freely and voluntarily. The undersigned understands that the terms contained herein are contractual and not a mere recital; and has signed this Waiver and Release as his/her/its own free act.

This Waiver and Release shall be governed by, and construed in accordance with, the laws of the State of New York, without reference to its conflicts of laws rules.

Invalidity of any provision of this Waiver and Release shall not affect other provisions.

Signature

Printed Name (and title, if applicable)

Name of Organization (if applicable)

Emergency Contact Name and Number

Date: _____

Pre-proposal Inspection Requirements

In accordance with the terms of the relevant Request for Proposals and any addenda thereto, the Battery Park City Authority d/b/a Hugh L. Carey Battery Park City Authority (the "Authority") invites all prospective bidders ("Contractors") to inspect the existing Project Site conditions associated with the North Cove Cellular Steel Sheet Pile Project prior to submitting a proposal. All such Contractors shall comply with, or cause compliance with, the protocols set forth in this Pre-Proposal Inspection Requirements form and indicate their acknowledgment of and agreement to so act by signing in the space provided below. In addition, the documentation requested herein must be submitted to the Authority prior to the performance of a pre-proposal inspection. The Contractor shall:

1. Comply with all applicable OSHA and ADCl regulations and safety procedures to ensure personnel health and safety. The Contractor must maintain a safe and clean working environment and shall ensure proper personal protective equipment at all times. In areas where pedestrian and/or vehicular traffic may be affected by the work, the Contractor shall cordon off the work area.
2. Exercise extreme care to prevent damage to existing structures by, or as a result of, his/her/its operations. Any damage resulting from the Contractor's operations shall be repaired as directed by the Authority's representative at no additional cost.
3. Submit a copy of its standard dive safety manual with a brief narrative of site specific considerations for review by the Authority's representative. Site specific considerations shall include the following: directions to local emergency rooms and dive trauma centers, diver access locations, and injured diver evacuation procedures.
4. Provide a certificate of insurance meeting or exceeding the following minimum coverage levels:

Commercial General Liability Insurance, written on ISO Form CG 00 001 or its equivalent and with no modification to the contractual liability coverage provided therein, shall be provided on an occurrence basis and limits shall not be less than:

- a. \$1,000,000 per occurrence
- b. \$2,000,000 General Aggregate
- c. \$2,000,000 Products / Completed Operations Aggregate

The Authority, Battery Park City Parks Conservancy ("BPCPC"), and the State of New York must be protected as additional insured on ISO Form CG 2010 (11/85) or its equivalent.

Automobile Liability Insurance with a Combined Single Limit of not less than \$1,000,000. Coverage must apply to the Proposer's owned, hired, and non-owned vehicles and protect the Authority, BPCPC, and the State of New York as additional insured.

Workers' Compensation, Employer's Liability, and Disability Benefits shall not be less than statutory limits, including United States Longshore and Harbor Workers Act coverage as applicable to the operations of the Proposer.

Umbrella Liability Insurance at a limit not less than \$1,000,000 per occurrence and in the aggregate. The Authority, BPCPC, and the State of New York must be protected as additional insured

If watercraft will be utilized as part of the inspection then **Comprehensive Marine Liability Insurance** must be maintained or caused to be maintained at a limit of not less than \$1,000,000 per occurrence and include the following coverage:

- Protection and Indemnity
- General Liability
- Pollution Liability

The Authority, BPCPC, and the State of New York must be protected as additional insured.

The additional insured protection afforded the Authority, BPCPC, and the State of New York on the above liability policies must be on a primary and non-contributory basis. All policies must include a waiver of subrogation in favor of the Authority, BPCPC, and the State of New York, and no policies may contain any limitations / exclusions for New York Labor Law claims.

5. Conduct all in water and under water inspection work using ADCI certified commercial divers using surface supplied air commercial diving equipment and procedures. Divers are required to have a secondary air source in readiness at all times. A secondary dive station shall be in readiness at all times for immediate response to an emergency situation.
6. Be responsible for coordinating dive activities with the New York Police Department, Harbor Patrol and the U.S. Coast Guard, as required.
7. Prepare a brief narrative of the Contractor's inspection plan including diver access/egress procedures associated with the entry locations specified by the Authority, dive station locations and space requirements, requested inspection locations and inspection procedures. Any inspection shall be non-destructive, and done using hand tools only. The use of video recording devices is prohibited. Inspections must be performed during regular construction hours of 7am to 3:30pm Monday through Friday.

Signature

Date