

**BATTERY PARK CITY AUTHORITY**

**REQUEST FOR PROPOSALS**

**FOR**

**North Esplanade Timber Pile Inspection and Engineering Remediation Design Services**

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## **I. SUMMARY**

Battery Park City Authority d/b/a Hugh L. Carey Battery Park City Authority (“BPCA”) requests proposals (each individually, a “Proposal” or collectively, the “Proposals”) from design and consulting engineering firms (each individually, a “Proposer” or collectively, the “Proposers”) to provide (1) inspection and engineering remediation design services with respect to timber piles located in the North Esplanade in Battery Park City to BPCA, and (2) construction administrative services in connection the remediation project. The North Esplanade runs along the northern and western borders of Battery Park City to the North Cove Marina to the south. The timber piles are located along the northern border of the North Esplanade. The services required shall include, but not be limited to:

- Diving inspections of the timber piles;
- Development of a remediation approach and plan;
- Provision of remediation project cost estimates;
- Participation in procurement process for the contractor to perform the remediation work;
- Limited involvement in permitting process, as described in Exhibit A attached hereto;
- Construction administration services; and
- Project inspections, determination of substantial completion of work, performance of a punch list inspection, issuance of a punch list and review of completed punch list work for sign-off.

In 2007, BPCA became aware of settlement under the North Esplanade as the northernmost (water side) of the North Esplanade began to pitch upwards, resulting in an uneven walking condition on the North Esplanade. This uneven walking surface, if not corrected, could develop into a public safety concern. Further investigation revealed inland settlement that resulted in the North Esplanade lifting off of the original wood pilings.

A temporary remediation involving the grinding of concrete and repositioning of pavers in order to alleviate the tripping hazard was performed in 2008. Subsequent recommendations for repair called for installation of additional concrete footings and reattachment of the esplanade structure to the existing wood piles. This work has not been performed.

BPCA has obtained a general maintenance permit for repair work from the US Army Corps of Engineers, a copy of which is attached hereto as Exhibit C (the “USACE Permit”), and is in the process of finalizing a ten-year general permit from the New York State Department of Environmental Control, a copy of which is attached hereto as Exhibit D (the “NYSDEC Permit”). Consequently, it is expected that the selected Proposer’s involvement in the permitting process will be limited to those activities described in Exhibit A attached hereto.

Minority-Owned Business Enterprises (“MBE”) and Women-Owned Business Enterprises (“WBE”) are encouraged to submit Proposals.

This Request for Proposals, the attachments and any additional information submitted herewith (collectively, the “RFP”) does not obligate BPCA to complete the selection and contract award process. BPCA reserves the right: 1) to accept or reject any and all Proposals; 2) to request additional information from any or all Proposers to assist BPCA in its evaluation process; 3) to amend or withdraw this RFP prior to the announcement of the selected Proposer; and 4) to award the proposed services, in whole or in part, to one or more firms. In case of an amendment to the RFP, all Proposers will be provided with a copy of any such amendment(s) and will be afforded the opportunity to revise their Proposals in response to the RFP amendment.

## **II. DESCRIPTION OF BPCA**

BPCA is a public benefit corporation created in 1968 under the laws of the State of New York for the purpose of financing, developing, constructing, maintaining, and operating a planned community development of the Battery Park City site as a mixed commercial and residential community.

Under the Battery Park City Authority Act (the “Act”), BPCA has the following powers, among others: to borrow money and to issue negotiable bonds, notes or other obligations and to provide for the rights of the holders thereof; to acquire, lease, hold, mortgage and dispose of real property and personal property or any interest therein for its corporate purposes; to construct, improve, enlarge, operate and maintain Battery Park City; to make bylaws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of Battery Park City; to make contracts and to execute all necessary or convenient instruments, including leases and subleases; to accept grants, loans and contributions from the United States, or the State of New York or the City of New York (the “City”), or any agency or instrumentality of any of them, or from any other source and to expend the proceeds for any corporate purpose; to fix, establish and collect rates, rentals, fees and other charges; and to do all things necessary or convenient to carry out the powers expressly granted by the Act. BPCA has no taxing power.

Since its inception, BPCA has caused the staged development of Battery Park City, in individual parcels, creating a richly diversified mixed use community providing residential and commercial space, with related amenities such as parks, open spaces, plazas, recreational areas and a waterfront esplanade. Most individual parcels of land in Battery Park City were developed into residential and commercial buildings by tenants (“Ground Lease Tenants”) under long-term ground leases with BPCA. The Ground Lease Tenants are responsible for the maintenance, insurance and defense and indemnification of BPCA with regard to those leased parcels.

One of BPCA’s key responsibilities under the Act is to operate, maintain and repair the parks and open spaces in and around Battery Park City’s residential and commercial areas. This function has been delegated by BPCA to the Battery Park City Parks Conservancy Corporation (“BPCPC”) through a written Management Agreement. BPCPC carries out its mission by maintaining 36 acres of parks, playgrounds and open spaces, including the waterfront esplanade. BPCPC also develops programs and manages public events for the Battery Park City community. BPCA owns and has built out a commercial condominium unit in a residential building in Battery Park City, which serves as the BPCPC headquarters.

To obtain a copy of BPCA’s most recently completed audited financial statements, please visit BPCA’s official website at [www.bpca.ny.gov](http://www.bpca.ny.gov). The audited financial statements and related reports found on BPCA’s website will provide you with an overview of the operations for which BPCA is responsible and the areas of expertise in which the selected Proposer must be proficient. For an overview of BPCPC’s operations, please visit its website at [www.bpcparks.org](http://www.bpcparks.org).

## **III. SERVICES REQUIRED**

**A.** If selected, Proposer will be responsible for the services delineated in Exhibit A (the “Services Required”), attached hereto.

**B.** All work to be performed by the selected Proposer shall be performed under the supervision of a Principal of the Proposer in charge of this engagement (the “Lead Principal”), who must ensure that the work completed for BPCA is performed competently and in a timely manner.

## **IV. KEY DATES, CONTRACT TERM AND MINIMUM QUALIFICATIONS**

**A. Key Dates****IV. KEY DATES, CONTRACT TERM AND MINIMUM QUALIFICATIONS****A. Key Dates**

The following is a list of key dates, up to and including the date Proposals are due to be submitted, which is subject to change at BPCA's discretion:

- Request for Proposals issued: **Wednesday, December 10, 2014**
- Pre-Proposal Meeting: **Monday, December 22, 2014** – 10:00 am
- Deadline to submit questions to BPCA: **Monday, January 5, 2014** by 4:00 p.m. (by email only). All questions regarding this RFP should be submitted in writing via email to the “Designated Contact”: **Michael LaMancusa – Contract Administrator**, Battery Park City Authority, at **michael.lamancusa**@bpca.ny.gov.
- Deadline for BPCA's response to substantive questions: **Friday, January 9, 2015** (by email)
- **DUE DATE FOR RESPONSES TO RFP: Wednesday, January 14, 2015 by 3:00 p.m. (the “Due Date”)**
- Selection and notification of successful Proposer: To be determined.
- Contract start date: To be determined.

**B. Anticipated Contract Term**

It is anticipated that the term of the contract awarded pursuant to this RFP (the “Contract”) will be one year. BPCA reserves the right to terminate the Contract at any time, with or without cause, upon thirty (30) days written notice. BPCA reserves the right to terminate the Contract at any time, without prior notice, if the partner identified in the Proposal as the Lead Principal for this engagement ceases to be employed by the selected Proposer.

**C. Minimum Qualification Requirements**

The following are the Minimum Qualification Requirements for this RFP. **Proposals that fail to comply with these requirements will be rejected.**

- 1) The Proposer must have an office in New York State (a New York City office is preferred);
- 2) The Proposer and Lead Principal must be licensed to do business in the State of New York;
- 3) The Proposer must have all the necessary professional licenses to perform the work; and
- 4) The Proposer must provide all required insurances to perform the work.

**V. GENERAL REQUIREMENTS****A. Questions regarding MBE/WBE participation, joint ventures and sub-contracting goals**

Please see Exhibit B (attached) for contractor requirements and procedures for business participation opportunities for New York State certified MBEs/WBEs and equal employment opportunities for minority group members and women.

For questions relating to MBE/WBE participation, joint ventures and sub-contracting goals ONLY, please contact “MBE/WBE Designated Contact” Mr. Anthony Peterson at 212.417.2337.

#### **B. Restricted Period**

Applicants are restricted from making contact with anyone other than the Designated Contact or MBE/WBE Designated Contact specified above during the period from the date of publication of the notice of this RFP in the New York State Contract Reporter through approval of the Contract by BPCA (the “Restricted Period”). Employees of BPCA are required to record certain contacts during the Restricted Period, including, but not limited to, any oral, written or electronic communication with a governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence BPCA’s conduct or decision regarding the governmental procurement, and to make a determination of responsibility based, in part, upon any such contact. Failure to abide by this process may result in a finding that the Proposer is a non-responsive Proposer.

#### **C. Submission of Proposals**

**Proposals are due no later than 3:00 p.m. on Wednesday, January 15, 2015.**

Proposers must submit ten (10) paper copies of their Proposals and one (1) electronic CD-ROM copy in a sealed package clearly marked “**Proposal Enclosed - North Esplanade Timber Pile Inspection and Engineering Remediation Design Services**” to the Designated Contact **by messenger, overnight courier or certified mail** to the following address:

Michael LaMancusa  
Battery Park City Authority  
200 Liberty Street, 24<sup>th</sup> Floor  
New York, NY 10281

BPCA is not responsible for any internal or external delivery delays which may cause any Proposal to arrive beyond the stated Due Date. To be considered, Proposals must arrive at the time and place specified herein and be time stamped by BPCA’s time stamp prior to the Due Date. Please leave ample time for building security, as late Proposals will not be accepted. Proposals submitted by fax or electronic transmission will NOT be accepted. A Proposer may, after submitting a Proposal, amend its Proposal by submitting a second, amended Proposal, clearly labeled “**Amended Proposal Enclosed - North Esplanade Timber Pile Inspection and Engineering Remediation Design Services**” as long as the amended Proposal is submitted by the Due Date.

Public access to Proposals shall be governed by the relevant provisions of the Freedom of Information Law, Article 6 of the New York State Public Officers Law, and regulations adopted pursuant thereto.

#### **D. Mandatory Forms**

Proposers must complete and include with their Proposal all “Mandatory Forms,” which can be found at the following URL address:

[http://www.bpca.ny.gov/pdf\\_n/Mandatory\\_Forms\\_Packet.pdf](http://www.bpca.ny.gov/pdf_n/Mandatory_Forms_Packet.pdf), by the Due Date.

These Mandatory Forms include the following:

1) NYS Standard Vendor Responsibility Questionnaire – **Submit with the Cost Proposal (as described below), one (1) original unbound set of a completed NYS Standard Vendor Responsibility Questionnaire with original ink signatures. Do not include the Standard Vendor Responsibility Questionnaire in the bound copies of the Cost Proposal.** The NYS Standard Vendor Responsibility Questionnaire must be notarized and signed by the individual(s) authorized to bind the firm contractually. Indicate the title or position that the signer holds within the firm.

2) State Finance Law § 139 Form 1 – **one original unbound completed SFL 139 Form 1: Professional's Certifications Pursuant to SFL § 139-j and § 139-k with original signature.** State Finance Law § 139 Forms 1 must be signed by the individual(s) authorized to bind the firm contractually.

3) W-9 form.

4) Statement of Non-Collusion.

5) Diversity Forms.

## **VI. PROPOSAL FORMAT AND CONTENTS**

### **A. Proposal Format**

The Proposal must be printed on 8½" x 11" paper. Pages should be numbered. The Proposal will be evaluated on the basis of its content, not length and should be limited to no more than ten (10) pages, exclusive of the Transmittal Letter and the Appendices listed below. BPCA reserves the right to disqualify Proposals that fail to comply with any of these instructions.

### **B. Proposal Content**

A Proposal in response to this RFP must include the following sections in the order listed:

1) Transmittal Letter, as follows:

The Proposal must include a signed Transmittal Letter from a person within the firm who is authorized to bind the firm, preferably the Lead Principal **Transmittal Letters must be signed. Proposals with unsigned Transmittal Letters will be rejected.**

**The Transmittal Letter must include a representation by the Proposer that, except as disclosed in the Proposal, no officer or employee of the Proposer is directly or indirectly a party to or in any other manner interested financially or otherwise in this RFP.**

2) Executive Summary.

3) Firm's discussion of its understanding of the Services Required (see Section III).

4) Firm's Responses to the RFP Questions and RFP Additional Information Request, set forth below.

5) Firm's Cost Proposal, as described below.

6) Firm's response to the question regarding the use of New York State businesses set forth in Section X of the RFP.

**C. RFP Questions**

- 1) Briefly describe your firm's background, size, and history as it may be relevant to the Services Required, with an emphasis on timber pile remediation and marine investigation and engineering. If your offices are located in more than one city, indicate which office will provide the services.
- 2) Describe the relevant special services your firm provides, particularly those that may not be offered by other firms.
- 3) Describe your experience and methodology for timber pile remediation and marine investigation and engineering.
- 4) List all the dive inspectors, designers and engineers you intend to assign to this engagement and the area(s) of specialization for each listed employee/consultant. Describe the role of each dive inspector, designer and engineer who will be assigned to this engagement.
- 5) Identify the Lead Principal who will be BPCA's primary contact and the lead Engineer providing services to BPCA. Each such person will be listed as a "key person" in any contract with BPCA.
- 6) Describe your proposed team's experience with similar work for other public agencies and authorities, with a particular emphasis on New York State agencies and authorities.
- 7) Describe your firm's "backup plan" in the event one or more of the engineers assigned to this engagement leave the firm.
- 8) Describe the strategies that you use to assure that the project schedule is maintained.
- 9) In the past five years, have any public sector clients terminated their working relationship with your firm? If so, please provide a brief statement of the reasons. Provide the name of the client and each such client's in-house counsel's name, address and telephone number.
- 10) Within the past three years, have there been any significant developments in your firm such as changes in ownership or restructuring? Do you anticipate any significant changes in the near future? If so, please describe.
- 11) Are there any potential conflict of interest issues in performing the services for BPCA?
- 12) How does your firm identify and manage conflicts of interest?
- 13) Has your firm or any of the firm's partners/employees been disciplined or censured by any regulatory body within the last five years? If so, please describe the relevant facts.
- 14) Within the last five years, has your firm, or a partner or employee in your firm, been involved in litigation or other legal proceedings relating to its/his/her provision of any inspection or engineering design services? If so, please provide an explanation and the current status or disposition of the matter.
- 15) List any professional or personal relationships your firm's principals may have with BPCA's Board and/or staff members of BPCA or BPCPC, as listed on Exhibit E.
- 16) Identify any and all exceptions taken to BPCA's standard form of contract attached hereto as Exhibit F detailing the reasons for such exceptions.
- 17) Please provide any additional information that would serve to distinguish your firm from other firms and that you believe may be relevant to this RFP and your capability to perform the services requested.

**D. RFP Additional Information Request**

- 1) Insurance:
  - a. Do you impose any limitations on liability through your contracts?
  - b. Describe the levels of coverage for any insurance your firm carries. List the insurance carrier(s) or provide an insurance certificate showing your firm's coverage in accordance with the following:

<b>INSURANCE TYPE</b>	<b>MINIMUM LIMIT</b>
Commercial General Liability Insurance	\$1,000,000 per occurrence
General Aggregate	\$2,000,000
Products/Completed Operations	\$2,000,000
Umbrella Liability	\$5,000,000
Automobile liability (Combined Single Injury, Bodily Injury and Property Damage)	\$1,000,000
Workman's Compensation	Statutory Limits, include USL&H and Jones Act Extensions
Employers Liability	\$1,000,000
Valuable Papers	\$ 250,000
Disability Insurance	Statutory Limits, include USL&H and Jones Act Extensions
Professional Liability	\$3,000,000

**The costs of the insurance shall be included in the Proposal.** BPCA, BPCPC and the State of New York shall be listed as Additional Insured on CG 2010 (11/85) or similar form and should be included as such on all subcontracts. Policies should contain no limitations/exclusions for Labor Law claims.

2) Appendices:

Please include professional biographies for all engineers, inspectors and divers listed in your proposal.

3) References:

Please provide at least three (3) client references for whom your firm has performed similar work to that requested in this RFP. For each client, please provide the name, address and telephone number for the appropriate client contact

4) Financial Statements:

Please provide a copy of your firm's most recent Audited Financial Statements (within the last year).

**E. Cost Proposal**

Six copies of the "Cost Proposal" must be provided in a separately sealed envelope that is included with the Proposal submission. The Cost Proposal, regardless of whether it's bound, must be submitted in its own separate envelope within the sealed package containing all other Proposal documents. For the avoidance of doubt, the Cost Proposal must be submitted separately and unbound from the remainder of the Proposal documents. The Cost Proposal must be labeled North Esplanade Timber Pile Inspection and Engineering Remediation Design Services.

Each "Cost Proposal" must state –a "not-to-exceed" amount for the services contemplated herein. A separate list of rates by category (e.g. Principal, Designer, Diver, etc.) shall be included with the Cost Proposal for proposed personnel for the Project, and will be broken into appropriate phases.

## **VII. THE EVALUATION PROCESS**

### **A. Objectives**

The primary objective of the evaluation process is to select a firm:

- That demonstrates a thorough understanding of the scope of the engagement and the specific responsibilities that it entails;
- Possesses adequate resources to handle assigned responsibilities and to handle unforeseen circumstances that may arise;
- Assigns highly skilled, experienced, diligent, responsible and professional personnel to perform the required services;
- Maintains high ethical standards and has an unblemished reputation;
- Has no conflict of interest between its representation of BPCA and that of other clients.

The selection process will begin with the review and evaluation of each of the written Proposals. The purpose of this evaluation process is twofold: (1) to examine the responses for compliance with this RFP and (2) to identify the complying firms that have the highest probability of satisfactorily performing the Services Required at a reasonable cost to BPCA. The evaluation process will be conducted in a comprehensive and impartial manner. The evaluation process will be conducted by a committee of BPCA's employees selected by BPCA (the "Committee"). **The Committee will evaluate the Proposals based upon the evaluation criteria for selection set forth below.**

BPCA reserves the right to reject and return unopened to the Proposer any Proposal received after the RFP Due Date. All timely submitted Proposals will be reviewed to determine if they contain all required submittals specified herein. Incomplete Proposals may be rejected.

### **B. Interviews**

BPCA reserves the right to determine whether interviews will be necessary for any or all of the Proposers. The purpose of the interview is to further document a Proposer's ability to provide the Services Required, and to impart to the Committee an understanding of how specific services will be furnished. The proposed Lead Principal, as well all other key personnel proposed to provide the services must be present and participate in the interview. The firm will be evaluated on the basis of whether the interview substantiates the characteristics and attributes claimed by the Proposer in its written response to this RFP and any other information requested by the Committee prior to the interview.

### **C. Evaluation Criteria for Selection**

Selection will be based upon the following criteria:

1) Technical evaluation factors:

- a) **Experience and expertise in Marine pile remediation: 40%**
- b) **Project approach and schedule: 25%**
- c) **Experience and capability of proposed staff: 25%**
- d) **Proposed MBE/WBE utilization plan (the "Utilization Plan") and/or Firm MBE/WBE status: 10%**

2) Cost Proposal evaluation.

#### **D. Basis for Contract Award**

The Contract will be awarded to the highest technically rated Proposer whose Proposal is determined to be responsive and in the best interests of BPCA, subject to a determination that the Cost Proposal is fair, reasonable and represents the best value to BPCA given the requirements of the Project.

#### **VIII. NON-COLLUSION**

By submitting a Proposal, Proposers hereby warrant and represent that any ensuing Contract has not been solicited or secured directly or indirectly in a manner contrary to the laws of the State of New York, and that said laws have not been violated and shall not be violated as they relate to the procurement or the performance of the Contract by any conduct, including the paying or giving of any fee, commission, compensation, gift, or gratuity or consideration of any kind, directly or indirectly, to any member of the board of directors, employee, officer or official of BPCA.

#### **IX. IRAN DIVESTMENT ACT**

By submitting a Proposal or by assuming the responsibility of any Contract awarded hereunder, Proposers hereby certify that they are not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the New York State Office of General Services website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certify that they will not utilize any subconsultant that is identified on the Prohibited Entities List on this Contract. The selected Proposer agrees that should it seek to renew or extend any Contract awarded hereunder, it must provide the same certification at the time the Contract is renewed or extended. The selected Proposer also agrees that any proposed assignee of the Contract will be required to certify that it is not on the Prohibited Entities List before BPCA may approve a request for assignment of the Contract.

During the term of any Contract awarded hereunder, should BPCA receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, BPCA will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the New York State Iran Divestment Act of 2012 within 90 days after the determination of such violation, then BPCA shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the selected Proposer in default of the awarded Contract.

BPCA reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension, or assignment of the Contract, and to pursue a responsibility review with the selected Proposer should it appear on the Prohibited Entities List hereafter.

#### **X. ENCOURAGING USE OF NEW YORK STATE BUSINESSES IN CONTRACT PERFORMANCE**

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, Proposers for this Contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the Contract. Such partnering may be as subcontractors, suppliers, protégés or other



**EXHIBIT A****Scope of Work**

The selected Proposer shall provide investigation and engineering design services along with construction administration services for the North Esplanade timber pile remediation project (the "Remediation Project"), which services shall include, but not be limited to the services outlined below:

**General**

- A. All work performed by the selected Proposer must adhere to all codes and all Local, City, State, and Federal regulations and guidelines.
- B. Proposer must provide full inspection, design, and construction administration services from award of Contract through Construction close-out of the Remediation Project.
- C. Proposer shall produce construction documents for the repairs required.
- D. It is anticipated that a separate Construction Manager will be utilized by BPCA to monitor the Remediation Project's day-to-day construction.
- E. Proposer must attend all meetings with BPCA during the design phase and must record and distribute meeting minutes for all meetings within 48 hours.
- F. Proposer will procure design estimates of the proposed work during the schematic, design development, and construction documents phases.
- G. Proposer is required to gain an understanding of current conditions of the North Esplanade in order to determine the magnitude and extent of deterioration, if any, and develop adequate design and detail drawings.
- H. Proposer must collect and review all information pertaining to the work area to become familiar with any existing utilities and/or structures that could interfere or effect the development of design and construction progress.

**Investigation, Engineering and Pre-Construction Services**

- A. Proposer shall conduct waterside and underwater inspections of the North Esplanade, as needed, to determine the type and extent of repairs.
- B. Proposer shall issue a report that describes the causes of any shifting or movement at the North Esplanade and propose a method of repair.
- C. Proposer must determine and develop a design that will replace, or repair and protect, the existing pier deck structure while accommodating utilities, existing plantings, and any other relevant loads. Proposer's design shall also be capable of supporting a load to be determined by BPCA and based on future usage of the space.
- D. Proposer will be required to produce construction drawings and specifications for the technical aspects of the Remediation Project, logistics of the Remediation Project, and the general and special conditions specific to the Remediation Project. The documents should include, but not be limited to, all specifications, plans, sections, and details of remedial solutions, site survey indicating existing utilities, and any associated demolition or removal plans and specifications. Specifications shall also include quality control measures and testing.
- E. All documents will be required to be submitted and available electronically as well as printed. Interim schematic, design development, and construction progress documents will be required with adequate time (2 weeks minimum) for review by BPCA.
- F. Proposer shall assure that all stages of the work are performed with **minimal** to **no disruption** to the finished and adjacent areas and minimal to no impact on the community and general public.

- G. Proposer is required to incorporate environmentally sustainable considerations in all aspects of the Remediation Project (design, construction and administration). This must be defined in the approach to work.
- H. Proposer must attend weekly meetings with BPCA to ascertain the basic concerns and logistics surrounding the Remediation Project and assure the Remediation Project proceeds on schedule.
- I. Proposer will be required to perform design calculations to certify the final documents and design, to verify the life expectancy (50 years or as appropriate) of the structure, and to ascertain the quality control and assurance of the structure. These calculations and justification for the design approach will be required to be submitted to BPCA at or prior to release of the construction documents.
- J. Proposer shall attend meetings with various specialty contractors, equipment manufacturers and industry specialists in order to select the most technically viable solutions, determine the availability of materials, justify the schedule, and develop and prepare associated cost estimates, if required.
- K. Proposer shall assist BPCA with the contractor procurement, inclusive of the solicitation, RFP preparation, qualification and reference review, proposal review and comparison, and selection of specialty contractors.
- L. Proposer must attend contractor pre-award interviews and make a recommendation to BPCA for selection of a contractor for the Remediation Project.
- M. Proposer must attend a pre-proposal conference and site visit for contractor selection. Proposer is responsible for clarifying and answering all technical issues raised during the procurement period and assisting with the issuance of addenda and/or meeting minutes.
- N. Proposer is responsible for supervising any on-site work pertaining to the Remediation Project during the design and pre-construction phases. Proposer is responsible for coordination of site access in accordance with BPCA's guidelines.

## **Permitting**

BPCA has obtained:

- A. A Department of the Army Nationwide General Permit Number 3, Maintenance, NAN-2014-00122 issued by the US Army Corps of Engineers ("USACE"), New York District on April 11, 2014 (the "USACE Permit"), a copy of which is attached hereto as Exhibit C.
- B. A Draft General Permit issued by the New York State Department of Environmental Conservation (the "NYSDEC Permit"), a copy of which is attached hereto as Exhibit D.

Proposer must prepare any and all notices, submissions, requests for amendment, variance or waiver or any other documentation required under the terms of the USACE Permit and/or the NYSDEC Permit for the performance of the Remediation Project.

If the proposed design work is not consistent with the terms and conditions of the USACE Permit and/or the NYSDEC Permit (individually, a "Permit" and, together, the "Permits"), the selected Proposer shall, after consultation with BPCA request a waiver of conditions or a modification of the appropriate permits from the issuing agency(ies). This request should be made as soon as the deviation from the Permit(s) is identified to minimize any delay to the proposed design/construction schedule. The request must include the issued Permit number, the proposed deviation from the Permit and conditions, the rationale behind and the justification for the requested change and any

other information as directed by the agency (ies). *All such requests will be the responsibility of the selected Proposer.*

**Construction Administration Services & Close-out**

- A. Proposer must review and approve the contract of the contractor that is selected to perform the remediation work for BPCA, and review and approve all requisitions for payment received from the contractor. Review of interim as-built documents are required with each payment.
- B. Proposer must attend a construction kick-off meeting; preparation and distribution of minutes of construction meetings will be by others.
- C. Proposer must attend weekly job progress meetings.
- D. Proposer must review and approve all shop drawings, submittals and samples submitted by the contractor within one week of receipt of same.
- E. Proposer must review all requests for change orders and provide recommendations for acceptance or rejection to BPCA.
- F. Proposer must determine substantial completion of work, perform a punch list inspection, issue a punch list and review completed punch list work for sign-off.
- G. Proposer must conduct final inspection, approve of the work and issue work acceptance certificates.
- H. Proposer must review and approve as-built drawings as issued by the contractor.

**EXHIBIT B**

**CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MBEs/WBEs AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN**

Pursuant to New York State Executive Law Article 15-A, BPCA recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified MBE/WBEs and the employment of minority group members and women in the performance of BPCA contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title “The State of Minority and Women-Owned Business Enterprises: Evidence from New York” (the “Disparity Study”). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that BPCA establish goals for maximum feasible participation of New York State Certified MBEs/WBEs and the employment of minority groups members and women in the performance of New York State contracts.

**Business Participation Opportunities for MBE/WBEs**

For purposes of this solicitation, BPCA hereby establishes an overall goal of **20%** for MBE/WBE participation, **10%** for MBE participation and **10%** for WBE participation (based on the current availability of qualified MBEs and WBEs). A contractor (“Contractor”) on the Contract must document good faith efforts to provide meaningful participation by MBE/WBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that BPCA may withhold payment pending receipt of the required MBE/WBE documentation. The directory of New York State Certified MBE/WBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html>.

For guidance on how BPCA will determine a Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MBE/WBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and BPCA may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MBE/WBEs had the Contractor achieved the contractual MBE/WBE goals; and (2) all sums actually paid to MBEs/WBEs for work performed or materials supplied under the Contract.

By submitting a bid or Proposal, a Proposer agrees to submit the following documents and information as evidence of compliance with the foregoing:

A. Proposers are required to submit a Utilization Plan with their bid or Proposal. Any modifications or changes to the Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised Utilization Plan and submitted to BPCA.

B. BPCA will review the submitted Utilization Plan and advise the Proposer of BPCA’s acceptance or issue a notice of deficiency within 30 days of receipt.

C. If a notice of deficiency is issued, Proposer agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to BPCA, at the address specified in this RFP, or by facsimile at 212-417-2279 a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by BPCA to be inadequate, BPCA shall notify the Proposer and direct the Proposer to submit, within five (5) business days, a request for a partial or total waiver of MBE/WBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or Proposal.

D. BPCA may disqualify a Proposer as being non-responsive under the following circumstances:

- 1) If a Proposer fails to submit a Utilization Plan;
- 2) If a Proposer fails to submit a written remedy to a notice of deficiency;
- 3) If a Proposer fails to submit a request for waiver; or
- 4) If BPCA determines that the Proposer has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE/WBE identified within its Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to the Contract award may be made at any time during the term of the Contract to BPCA, but must be made no later than prior to the submission of a request for final payment on the Contract.

Contractors are required to submit a Contractor's MBE/WBE Contractor Compliance & Payment Report to BPCA on a monthly basis over the term of the Contract documenting the progress made toward achievement of the MBE/WBE goals of the Contract.

#### **Equal Employment Opportunity Requirements**

The Contractor is required to ensure that it shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract or (ii) employment outside New York State.

Proposer further agrees, where applicable, to submit with the Proposal, a staffing plan identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to BPCA a workforce utilization report identifying the workforce actually utilized on the Contract, if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other New York State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as are allowed by the Contract.**

For questions on MBE/WBE participation, joint ventures and sub-contracting goals ONLY, please contact Mr. Anthony Peterson at 212.417.2337.

**EXHIBIT C**

**USACE Permit**

**EXHIBIT D**

**NYSDEC Permit**

**EXHIBIT E**

**LIST OF BOARD MEMBERS**

Dennis Mehiel  
Frank Branchini  
Don Capoccia  
Martha Gallo  
Lester Petracca

**LIST OF BPCA and BPCPC EMPLOYEES**

(See attached)

**EXHIBIT F**

**BPCA's standard form of contract**