



**Battery Park  
City Authority**

**REQUEST FOR PROPOSALS**

**FOR**

**South Battery Park City Resiliency Project:**

**Construction Management Services**

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## I. SUMMARY

Battery Park City Authority d/b/a Hugh L. Carey Battery Park City Authority (“BPCA”) requests proposals (individually a “Proposal” and collectively the “Proposals”) from construction management firms (individually a “Proposer” and collectively the “Proposers”) to provide BPCA with comprehensive construction management services for the South Battery Park City Resiliency Project (the “Project”). The Project is currently in the design stage. A detailed Scope of Work for which the selected Proposer will be responsible is attached as Exhibit A (the “Services” or the “Work”). Specifically, the Services will consist of construction management services related to a construction project designed to establish a comprehensive coastal flood prevention system to check water inundation from the Hudson River Estuary associated with future storm activity and sea level rise. It is possible that the Project may be phased and implemented through more than one construction contract; however any such phases will be incorporated under the collective reference to the “Project.”

As described in more detail in Exhibit A, BPCA’s resiliency studies have identified the area included in the Project as a primary point of flood vulnerability due to storm surge and projected sea-level rise. This area also will likely be the first point of connection between a Battery Park City (“BPC”) barrier system and the Lower Manhattan Coastal Resiliency (“LMCR”) project, which is the City of New York’s planning vehicle for a targeted, though as-yet not fully funded, flood-protection system for the southern part of Manhattan.

The Project will include all infrastructure construction related to the creation of a flood barrier system (the “Barrier System”) that will be constructed along an identified alignment that extends from the Battery Park City Esplanade (the “Esplanade”) at the west end of 1st Place, along the waterside edge of the Museum of Jewish Heritage (“MJH”), through Robert F. Wagner Park (“Wagner Park”), and the Pier A Plaza (the “Plaza”), and then extending eastward along the northern edge of the Battery to a terminus at approximately the southwest corner of Battery Place and State Street. The Barrier System Construction Project will also include, among other things, the demolition of the existing Wagner Park Pavilion; the modification of landscape and plaza components throughout the Project Site; modifications and upgrades to the storm drainage systems serving the Project Site; upgrades to the southern section of the Battery Park City Esplanade’s relieving platform to accommodate flood protection measures and associated structural loads; the implementation of certain modifications to the water inlet and associated edge conditions separating Pier A from Pier A Plaza and Wagner Park; upgrades and modifications to storm water drainage systems within the Project Site; and temporary relocation and reinstatement of existing artwork in Wagner Park. The Barrier System will be certified and accredited by the Federal Emergency Management Agency (“FEMA”). The Project will also include the construction of a new Wagner Park Pavilion that will replace the existing Wagner Park Pavilion. It is expected that all elements of the Project will be performed subject to the terms of an as yet to be executed project labor agreement (the “PLA”), which will be implemented in accordance with the terms of New York Labor Law 222. As a result, the Project will be exempt from the provisions of Section 135 of the New York State Finance Law, commonly referred to as the “Wicks Law.”

The Barrier System will consist of a combination of passive and deployable measures designed to provide flood risk reduction to design flood elevations that will vary between 14.0 and 18.5 feet. The Barrier System will serve as an effective stand-alone protective measure, providing independent utility and flood risk reduction to a broad swath of South Battery Park City and Lower Manhattan and will be capable of connecting to future waterside flood barrier systems to the east and to the north if and when such systems are constructed.

In recognition of the complexity of the Project and in order to expedite the construction of the Project, it is likely that the Project will be phased and performed through up to three (3) separate construction

contracts. A construction phasing plan will be established and finalized once the selected Proposer is contracted by BPCA and has provided phasing recommendations to BPCA.

The Project area is divided roughly into the following four (4) segments (collectively, the “Project Site”), which are illustrated in the concept images and thirty percent (30%) design drawings (the “30% Design Documents”) attached to this RFP as Exhibit B:

- a) The MJH Segment – Starting at the BPC Esplanade near the western terminus of 1<sup>st</sup> Place and extending along the waterside perimeter of the MJH to the northern boundary of Wagner Park;
- b) The Wagner Park Segment – Starting at the southern terminus of the MJH Segment and extending through Wagner Park to the southeastern terminus of Battery Park City, at its boundary with the Pier A Plaza;
- c) The Pier A Plaza Segment – Starting at the southeastern terminus of the Wagner Park Segment and extending across Pier A Plaza to its eastern boundary; and
- d) The Battery Bikeway Segment – Starting at the eastern boundary of the Pier A Plaza Segment and extending along the northern perimeter of the Battery, roughly parallel with Battery Place, to an end point to be determined but roughly at the intersection of Battery Place and State Street.

Both the Pier A Plaza Segment and the Battery Bikeway Segment include property owned or administered by the City of New York (“NYC”), the New York City Department of Parks and Recreation (“NYCDPR”), the New York City Economic Development Corporation (“NYCEDC”), and/or the New York City Department of Transportation (“NYCDOT”).

Created in 1968, BPCA is a New York State public benefit corporation responsible for financing, developing, constructing, maintaining, and operating Battery Park City as a richly diversified, mixed-use community providing residential and commercial space, with related amenities such as parks, plazas, recreational areas, and a waterfront esplanade. A summary of BPCA’s structure, mission, and history, as well as a map of Battery Park City, may be viewed at: [www.bpca.ny.gov](http://www.bpca.ny.gov). Public information regarding BPCA’s finances, budget, internal controls, guidelines, and policies may be viewed at: [www.bpca.ny.gov/public-information](http://www.bpca.ny.gov/public-information). Information relating to the Battery Park City Parks Conservancy Corporation (“BPCPC”), BPCA’s affiliate, may be viewed at: [www.bpcparks.org](http://www.bpcparks.org).

New York State-certified Minority-Owned Business Enterprises (“MBE”), Women-Owned Business Enterprises (“WBE”), and Service-Disabled Veteran-Owned Businesses (“SDVOB”) are encouraged to submit Proposals.

## **II. GENERAL PROVISIONS**

This request for Proposals, including attachments, exhibits, and any amendments or addenda (collectively, the “RFP”) is subject to the rights reserved by BPCA, including, but not limited to BPCA’s right to:

- withdraw and/or cancel this RFP at any time before final award of the contract;
- request clarification and/or additional information from any or all Proposers;
- amend any term or requirement of this RFP at any time before award of a contract (Proposers may amend their Proposals, as directed by BPCA, if BPCA materially alters or amends the RFP after submission of Proposals);
- alter any key dates or deadlines related to this RFP;
- award the Work, in whole or in part, to one or more Proposers with or without interviews;
- reject any Proposal that does not strictly conform to the requirements of this RFP;
- conduct an interview with any or all of the Proposers to aid the evaluation process; and

- negotiate potential contract terms with any Proposer.

BPCA is not liable or responsible in any way for any expenses incurred in the preparation of a Proposal in response to this RFP. All information submitted in response to this RFP is subject to the Freedom of Information Law, Article 6 of the New York State Public Officers Law (“FOIL”), which requires public access to certain documents possessed by BPCA, unless a specific exemption applies. Proposers are responsible for identifying any information in their respective Proposals considered to be confidential and exempt from FOIL. BPCA, however, is obligated to disclose information consistent with the requirements of FOIL, New York State Public Authorities Law Section 87.

### **III. TIMETABLE & DESIGNATED CONTACT**

#### **A. *Key Dates***

Subject to change at BPCA’s discretion, the following are key dates for this RFP:

- RFP issued: December 16, 2019
- **Mandatory pre-proposal meeting** (attendance is required):
  - Date: December 20, 2019 at 11:30 a.m.
  - Location: BPCA Offices – 24<sup>th</sup> floor, 200 Liberty St., New York, NY 10281
- Deadline to submit questions to BPCA: January 7, 2020 by 4:00 p.m. (by email only)

All questions regarding this RFP should be submitted in writing via email to **Michael LaMancusa**, BPCA’s Assistant Contracting Officer, at [michael.lamancusa@bpca.ny.gov](mailto:michael.lamancusa@bpca.ny.gov) (the “Designated Contact”).

- BPCA’s response to substantive questions: January 16, 2020 (via posting on the BPCA website)
- PROPOSAL DUE DATE: January 24, 2020 by 3:00 p.m. (the “Due Date”)
- **INTERVIEWS (IF DEEMED NECESSARY BY BPCA) WILL BE HELD ON FEBRUARY 4, 5 AND/OR 6.**
- Contract start date: March 2020 (approximate)

#### **B. *Anticipated Contract Term***

The anticipated term of the contract awarded pursuant to this RFP (the “Contract”) will be thirty (30) months. BPCA reserves the right to terminate the Contract at any time, with or without cause, in accordance with the terms of the Contract. BPCA’s sample form of contract (the “Standard Form of Contract”) is attached as Exhibit D.

#### IV. GENERAL REQUIREMENTS

##### A. *Minimum Qualification Requirements*

The following are the minimum qualification requirements for this RFP. Proposals that fail to meet 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 must be lawfully authorized to do business in the State of New York.
- 3) The Proposer must have at least five (5) years of experience providing construction management services for major urban infrastructure projects, at least two (2) of which have been performed in New York City.

##### B. *MBE/WBE/SDVOB Participation, Joint Ventures, and Sub-contracting Goals*

Contractor requirements and procedures for business participation opportunities for New York State certified MBEs/WBEs/SDVOBs and equal employment opportunity requirements relating to minority group members and women are attached as Exhibit C. For questions relating to MBE/WBE/SDVOB participation, joint ventures and sub-contracting goals *only*, please contact the “MBE/WBE/SDVOB Designated Contact:” Mr. Justin McLaughlin-Williams at [justin.mclaughlin-williams@bpca.ny.gov](mailto:justin.mclaughlin-williams@bpca.ny.gov) or 212-417-2337.

##### C. *Restricted Period*

New York State’s State Finance Law sections 139-j and 139-k apply to this RFP, restricting Proposers’ contacts with BPCA. Proposers are restricted from making any contact (defined as oral, written or electronic communications with BPCA under circumstances where a reasonable person would infer that a communication was intended to influence BPCA’s conduct or decision with respect to a procurement) relating to this RFP with anyone other than the Designated Contact, as specified in Section III.A., or MBE/WBE/SDVOB Designated Contact, as specified in Section IV.B., from the time of Proposer’s receipt of notice of this RFP through the date of the Final Award as defined in BPCA’s Procurement Guidelines (the “Restricted Period”). BPCA employees must record certain contacts during the Restricted Period including, but not limited to, any oral or written communications that could reasonably be seen as intended to influence BPCA’s conduct or award of this RFP. Upon notice of an improper contact, BPCA will make a determination regarding the Proposer’s eligibility to continue participating in this RFP.

##### D. *Submission of Proposals*

**Proposals must be received by BPCA no later than 3:00 p.m. on January 24, 2020.**

Each Proposer must submit six (6) paper copies and a PDF version (via CD-ROM or flash drive) of its Proposal in a sealed package clearly marked “Proposal Enclosed – South Battery Park City Resiliency Project: Construction Management Services” to the Designated Contact by messenger, overnight courier or certified mail to the following address:

Battery Park City Authority  
Attn: Michael LaMancusa  
200 Liberty Street, 24<sup>th</sup> Floor

New York, NY 10281

BPCA is not responsible for late Proposals, no matter the cause. Proposals *must* arrive by the time and place specified herein and be time stamped by BPCA by the Due Date. Please leave ample time for building security. 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 an amended Proposal, clearly labeled “Amended Proposal – South Battery Park City Resiliency Project: Construction Management Services,” as long as the amended Proposal is submitted by the Due Date in the same manner specified in this Section IV.D.

**V. PROPOSAL FORMAT AND CONTENTS**

**A. *Proposal Format***

The Proposal must:

- Be printed on 8½” x 11” paper;
- Have numbered pages; and
- Be no longer than ten (10) single-sided pages, exclusive of the Cover Letter, Cost Proposal, and Required Attachments.

**B. *Proposal Content***

In addition to the separately sealed Cost Proposal, described in Section VIII below, each Proposal must include the following in the order listed:

- 1) Cover Letter, signed by a person within the firm who is authorized to bind the Proposer, which includes representations that:
  - (a) 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;
  - (b) Proposer satisfies all of the minimum qualification requirements in Section IV.A; and
  - (c) Proposer has reviewed BPCA’s Standard Form of Contract, attached as Exhibit C to this RFP, and either has no objections or has detailed their objections in an appendix to their Proposal.
- 2) Executive Summary.
- 3) Responses to the Questions as well as all of the Information Required (Sections VI.A and B).
- 4) Required Attachments (Section VI.C).

**BPCA reserves the right to reject any Proposals that fail to include any required item described in this Section V.B., including Cover Letters that are unsigned or fail to include each of the above representations (including an appendix as required by Section VI.A.12, if Proposer has objections to BPCA’s Standard Form of Contract).**

**VI. INFORMATION REQUIRED:**

**A. *Questions and Information Sought Relating to the Work***

- 1) Describe your firm's background, services, size, and history as these factors are relevant to the Work, with an emphasis on construction management services for projects of similar size and scale, and with an emphasis on major urban infrastructure projects and, in particular, storm and climate-change related resiliency projects involving flood protection of waterfront areas, buildings, and landscapes in dense urban environments. Your description should include reference to your firm's work with associated environmental approvals and FEMA certification/accreditation processes. Describe your firm's experience providing construction management services for transportation infrastructure projects involving bridges and tunnels, along with sensitive and densely occupied underground conditions.
- 2) Describe your firm's experience providing construction management services for public parks, open spaces, and public amenity structures and buildings.
- 3) Describe your firm's experience managing projects involving certification processes for one or more of the following certifications/qualifications: a) ILFI Zero Carbon, b) WEDG, and/or, c) Net Zero Energy Building design.
- 4) Describe your firm's experience managing projects that are governed by, or subject to, project labor agreements.
- 5) Identify members of your team who have experience performing services for, and interacting with, NYC, NYCDPR, NYCEDC, NYCDOT, and the NYS Department of Transportation on infrastructure and resiliency projects.
- 6) Describe any other experience your proposed team has had with work similar to that required for the Project for other public agencies, authorities, and entities, with an emphasis on New York State and New York City public entities.
- 7) Describe your proposed approach and methodology, including scheduling, sequencing, and staffing for the construction management services associated with the Project. Please include consideration of all potential phasing and segmenting options, as well as innovative work approaches that would allow for condensing of the overall construction duration to the greatest extent possible.
- 8) List the core members of the team you intend to assign to this engagement and include for each listed individual: (a) area(s) of specialization; (b) title and/or position within your firm; (c) the services to be performed.
- 9) Identify the Project Manager who will be the primary contact and lead personnel in providing services to BPCA, and identify any other persons who will be listed as a "key person" in any contract with BPCA.
- 10) Identify any sub-consultants you intend to use for this engagement, and describe the services to be performed by each sub-consultant.
- 11) Clearly identify any information in your Proposal that you believe to be confidential and exempt from FOIL, and state the reasons. Please note that this question is for informational purposes



only, and BPCA will determine whether information or materials are exempt from disclosure under FOIL in its sole discretion.

- 12) **Identify any and all exceptions taken to BPCA’s Standard Form of Contract, attached as Exhibit D, and explain the reasons for such exceptions. Such exceptions must be detailed in an appendix to your Proposal labeled, “Appendix: Objections to BPCA Form of Contract.” NO EXCEPTIONS TO THE CONTRACT WILL BE CONSIDERED BY BPCA AFTER SUBMISSION OF THE PROPOSALS. BPCA maintains the right to reject Proposals based on non-conformance with the Standard Form of Contract.**
- 13) Provide at least three (3) client references for whom your firm has performed similar work to that requested in this RFP. For each client, describe the project, the project’s date, and services performed, and provide the name, address, and telephone number for a person at client’s firm familiar with such work.

***B. Questions and Information Sought Relating to Proposer’s Firm & Eligibility***

- 1) Within the past three (3) 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.
- 2) How does your firm identify and manage conflicts of interest?
- 3) Are there any potential conflict of interest issues posed by your firm’s performance of the Work on behalf of BPCA?
- 4) Has your firm or have any of the firm’s partners/employees been disciplined or censured by any regulatory body within the last five (5) years? If so, please describe the relevant facts.
- 5) Within the last five (5) years, has your firm, or a partner or employee in your firm, been involved in litigation or other legal proceedings relating to the provision of professional services? If so, please provide an explanation and the current status or disposition of the matter.
- 6) List any professional or personal relationships your firm’s employees may have with BPCA’s Board Members and/or employees. A list of such Board members and employees is attached as Exhibit H.
- 7) If selected, will your firm assign any person to this engagement who was previously an employee of BPCA or BPCPC? If so, please: i) identify when (month and year) that person’s employment at BPCA/BPCPC terminated, and ii) describe that person’s involvement, if any, with matters related to this RFP during his/her employment at BPCA/BPCPC.
- 8) In the past five (5) 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 provide a contact person, address and telephone number.

***C. Required Attachments***

- 1) Mandatory Forms:

Each Proposal must include a completed copy of all “Mandatory Forms” found at: [www.bpca.ny.gov/wp-content/uploads/2015/03/Mandatory-Forms.pdf](http://www.bpca.ny.gov/wp-content/uploads/2015/03/Mandatory-Forms.pdf).

The Mandatory Forms include the following:

- a) NYS Standard Vendor Responsibility Questionnaire, notarized and signed by the individual(s) authorized to contractually bind the Proposer, indicating the signer’s title/position within the firm.\*
- b) State Finance Law § 139 Form 1, signed by the individual(s) authorized to contractually bind the Proposer.\*
- c) W-9 form.
- d) Statement of Non-Collusion.
- e) MBE/WBE/SDVOB Utilization Plans. Please note that all such plans must be submitted even if Proposer is a MBE/WBE/SDVOB.

\* In addition to the copy required to be included in each bound Proposal, Proposers must additionally provide one (1) unbound, completed original, with ink signatures, of the NYS Standard Vendor Responsibility Questionnaire and SFL 139 Form 1.

- 2) Response to the question regarding the use of New York State businesses set forth in Section XII.
- 3) Completed MBE/WBE and EEO Policy Statement and Diversity Practices Questionnaire (attached as part of Exhibit C).
- 4) Financial Statements:

Provide a copy of your firm’s most recent audited financial statements (within the last year). In the event you do not have audited financials you must provide a statement to that effect with your proposal, and summary financial information for the calendar year most recently ended.

- 5) Acknowledgement of Addenda:

Attach a completed and signed Acknowledgement of Addenda Form, attached as Exhibit G, acknowledging receipt of all addenda to this RFP, if any, issued by BPCA before the Due Date. Addenda are posted by BPCA as necessary and can be found on the BPCA website at [www.bpca.ny.gov](http://www.bpca.ny.gov). It is the responsibility of each Proposer to check the BPCA website for addenda and to review addenda prior to submitting any proposal in response to this RFP.

- 6) Additional Appendices:

- a) Attach professional biographies for all core members, managers and supervisors on the Proposer’s team who will be assigned to the Work.

## **VII. INSURANCE AND BONDING REQUIREMENTS**

### **A. *General Requirements***

The total cost of the required insurance listed in paragraphs A) and B) below, must be incorporated into the Cost Proposal. The additional insured protection afforded BPCA, BPCPC, and the State of New York must be on a primary and non-contributory basis, and a selected Proposer must provide evidence of such additional-insured status to BPCA before commencing any Work. All policies must include a waiver of subrogation in favor of BPCA, BPCPC, and the State of New York, no policies may contain any limitations / exclusions for New York Labor Law claims, and cross liability coverage must be provided for BPCA, BPCPC, and the State of New York.

All of the carriers that provide the below required insurance must be rated "A-:VII" or better by A.M. Best and must provide direct written notice of cancellation or non-renewal to BPCA, BPCPC, and the State of New York at least 30 days before such cancellation or non-renewal is effective, except for cancellations due to non-payment of premium, in which case 10 days written notice is acceptable.

***B. Insurance Requirements for the Selected Proposer***

The selected Proposer will be required to obtain and provide proof of the types and amounts of insurance listed below: (i) as a condition precedent to the award of the contract for the Project; and (ii) continuing throughout the entire Term. The insurance policies listed below must also conform to the applicable terms of the Contract, as shown in BPCA's sample form of contract attached.

- **Commercial General Liability Insurance**, written on ISO Form CG 00 01 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:
  - \$6,000,000 per occurrence;
  - \$7,000,000 general aggregate; and,
  - \$7,000,000 products/completed operations aggregate.

BPCA, BPCPC, and the State of New York must be protected as additional insureds on ISO Form CG 2010 (11/85) or its equivalent on policies held by the selected Proposer and any of its subcontractors. Should the Proposer's work include construction activities of any kind then the Proposer must maintain Products / Completed Operations coverage for no less than three years after the construction work is completed, and continue to include Additional Insured protection for BPCA, BPCPC & The State of New York for the prescribed timeframe. When providing evidence of insurance, the Proposer must include a completed Acord 855 NY form. Securing the required limits via a combination of primary and umbrella/excess liability policies is allowed. The General Aggregate limit must apply on a per project basis on the primary General Liability policy should a combination of primary and Umbrella/Excess liability policies be utilized to secure the required total limits of coverage.

- **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 BPCA, BPCPC, and the State of New York as additional insured. Securing the required limits via a combination of primary and umbrella/excess liability policies is allowed.
- **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.

- **Professional Liability (“Errors & Omissions”) Insurance** must be maintained at a limit of not less than \$5,000,000 each claim.

**C. Insurance Requirements for all Subconsultants**

Any subcontractor(s) utilized by the selected Proposer will be required to obtain the types and amounts of insurance listed below: (i) as a condition of commencing any Work; and (ii) continuing throughout the duration of the subcontractor’s Work. The insurance policies listed below must also conform to the applicable terms of the Contract, as shown in BPCA’s sample form of contract attached:

- **Commercial General Liability Insurance**, written on ISO Form CG 00 01 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:
  - \$1,000,000 per occurrence
  - \$2,000,000 general aggregate which must apply on a per location / per project basis
  - \$2,000,000 products/completed operations aggregate

BPCA, BPCPC, and the State of New York must be protected as additional insureds on ISO Form CG 2010 (11/85) or its equivalent on policies held by all subcontractors. Should the subcontractor’s work include construction activities of any kind then the subcontractor must maintain Products / Completed Operations coverage for no less than three years after the construction work is completed and continue to include Additional Insured protection for BPCA, BPCPC & The State of New York for the prescribed timeframe. When providing evidence of insurance, the subcontractor must include a completed Acord 855 NY form. Securing the required limits via a combination of primary and umbrella/excess liability policies is allowed. The General Aggregate limit must apply on a per project basis on the primary General Liability policy should a combination of primary and Umbrella/Excess liability policies be utilized to secure the required total limits of coverage.

- **Automobile Liability Insurance** with a combined single limit of not less than \$1,000,000. Coverage must apply to the subcontractor’s owned, hired, and non-owned vehicles and protect BPCA, 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 subcontractor.
- **Subcontractors will also be required to obtain all other insurances listed in Section VII.B unless otherwise approved in writing by BPCA prior to commencement of any Subcontractor’s work.**

**VIII. COST PROPOSAL: FORMAT AND REQUIRED INCLUSIONS**

Each Cost Proposal must submit six (6) copies of the Cost Proposal, which must include:

- 1) A total not-to-exceed fee proposal (Exhibit E);
- 2) Reimbursable costs (Exhibit E); and,
- 3) Technical salary rates (Exhibit F) for the performance of all Work.

The Cost Proposal must also include a breakdown of the Proposer’s not-to-exceed costs per task category (Pre-Construction Tasks, Construction Tasks, Meeting and Reporting Tasks, and Post-Construction & Closeout Tasks), as described in the Scope of Work (Exhibit A).

The Cost Proposal must be submitted in its own separate, sealed envelope within the sealed package containing all other Proposal documents. Please provide six (6) copies of the Cost Proposal.

**IX. SELECTION PROCESS**

**A. *Evaluation***

Each timely submitted Proposal will be reviewed for compliance with the form and content requirements of this RFP. A committee of BPCA employees selected by BPCA (the “Committee”) will then review and evaluate the Proposals in accordance with the evaluation criteria set forth below. While only Committee members will score the evaluation criteria, the Committee may consult an outside expert for advisement on the evaluation of matters requiring technical expertise. Before final selection, BPCA must determine that the proposed selected Proposer is responsible, in accordance with applicable law and BPCA’s Procurement Guidelines, which may be viewed at: [www.bpca.ny.gov/public-information](http://www.bpca.ny.gov/public-information).

**B. *Interviews***

BPCA reserves the right to decide whether to interview any or all of the Proposers. The Committee may conduct interviews for many reasons, including to further assess a Proposer’s ability to perform the Work or provide specific services, or to seek information related to any other evaluation criteria. The proposed Lead PM, as well all other core personnel proposed to perform the Work, must be available to participate in the interview. Failure to be invited for an interview does not indicate that a Proposer is no longer under consideration for the Project.

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

Selection will be based upon the following criteria:

- 1) Technical Evaluation:
  - a) Experience managing major urban infrastructure projects and, in particular, storm and climate-change related resiliency projects involving flood protection of waterfront areas, buildings, and landscapes in dense urban environments, including experience with associated environmental approvals and Federal Emergency Management Agency (“FEMA”) certification/accreditation processes..... 20%
  - b) Approach to the provision of Services, including scheduling, staffing, and sub-consultants, along with potential phasing and segmenting options and innovative work approaches that would allow for condensing of the overall construction duration to the greatest extent possible.....25%
  - c) Experience managing projects involving public parks, open spaces and public amenity structures and buildings, especially in NYC.....10%
  - d) Experience managing urban drainage and transportation infrastructure projects,

especially those involving bridges and tunnels, and sensitive and densely occupied underground conditions..... 10%

- e) Experience managing projects involving certification processes for one or more of the following certifications/qualifications: i) ILFI Zero Carbon, ii) WEDG.....5%
  - f) Experience managing projects involving multiple construction contracts, and projects with complex inter-agency requirements.....10%
  - g) Experience managing projects utilizing a PLA.....10%
  - h) Response to Diversity Practices Questionnaire.....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 provides the best value to BPCA given the requirements of the Project.

**X. NON-COLLUSION**

By submitting a Proposal, each Proposer warrants and represents 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.

**XI. IRAN DIVESTMENT ACT**

By submitting a Proposal or by assuming the responsibility of any Contract awarded hereunder, each Proposer certifies that it is 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: [www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf](http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf) and further certifies that it will not utilize any subcontractor/consultant 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.

**XII. 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 supporting roles.

Proposers are strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, Proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York’s infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor’s optimal performance under the Contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State’s economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders/proposers to provide maximum assistance to New York businesses in their contracts. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

Proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below. Each proposer must include a response to this question with their proposal. Please note that a “yes” response requires supporting information. If yes, identify New York State businesses that will be used and attach identifying information.

Will New York State businesses be used in the performance of this contract? \_\_\_\_Yes \_\_\_\_No

## EXHIBIT A

### SCOPE OF WORK

#### **I. Background and Context**

In October 2012, Hurricane Sandy devastated the Northeast United States, resulting in over fifty (50) lives lost in New York alone and billions of dollars in property damage, along with extensive loss of income and productivity and millions of traumatized residents. Although Sandy had been downgraded to tropical storm or “Superstorm” status by the time it reached New York City, it packed an incredibly powerful punch along the Manhattan waterfront, especially at particularly vulnerable points in Lower Manhattan, where streets, office and residential buildings, transit facilities, hospitals, power plants, public facilities and many other points were inundated with flood waters, in some cases to a height of several feet. The bulk of the damage in Lower Manhattan, including in Battery Park City (“BPC”), resulted from storm surge and related flooding.

In the ensuing years since 2012, Battery Park City Authority (“BPCA”), as the governmental entity responsible for planning and maintaining BPC, has participated in various collaborative efforts involving the State of New York State, the City of New York, local property owners, and certain other resiliency-focused groups and organizations to address the growing threat to Lower Manhattan of storm-related flooding and sea level rise related to climate change. The City of New York subsequently devised the Lower Manhattan Coastal Resiliency project (“LMCR”) as its planning vehicle for what was at the time viewed as a targeted system of flood barrier protection to extend from Montgomery Street on the Lower East Side, southward around the tip of Manhattan and up along Battery Park City a point just north of Chambers Street. The early design work for the LMCR project focused primarily on the East River segments of the Project.

Given the urgency of the need and the broad sweep of Manhattan coastline to be addressed, BPCA initiated its own resiliency assessment projects, aimed at evaluating BPC’s peculiar vulnerabilities to storm-related flood damage and sea level rise and also devising a plan to expedite the implementation of protective measures for BPC. Through these resiliency assessment projects, and subsequent design and engineering efforts, BPCA has formulated a methodology for the protection of BPC residents and assets that will function independently of other lower Manhattan resiliency measures that may be developed, provide the floor risk reduction originally contemplated by the BPC segment of the LMCR, and create a coordinated means for the LMCR project, in its revised form and at such time as it may be built, to tie into BPC. To date, BPCA’s resiliency assessments have identified the two (2) most currently dire points of severe flood vulnerability within BPC to be: (i) Wagner Park, Pier A Plaza and environs (the subject of the current Project) and (ii) the intersection of the BPC Esplanade and the Hudson River Park waterfront immediately north of Stuyvesant High School and environs (the subject of the North Battery Park City Resiliency Project, which is currently in the early stages of design development).

In August 2018, AECOM USA Inc. (“AECOM” or the “Design Team”) was contracted by BPCA for the South Battery Park City Resiliency Project Design Services to provide design, documentation and engineering services to advance the conceptual plans devised through earlier projects to final sets of construction documents suitable for contractor bidding. With design well underway, BPCA seeks through this RFP to identify a suitable construction management firm to lead the Project through construction to final completion, in accordance with the Scope of Work specified below. Concept images (the “Concept Images”) and 30% Design Documents are attached to the RFP as Exhibit B.



**Note:** The Concept Images and the 30% Design Documents included in Exhibit B will provide Proposers with sufficient information about the Project to develop a Proposal for provision of the Services. However, as indicated, these documents do not represent a complete and final design for the Project. The 30% Design Documents are subject to change, and Proposers should not rely on these documents except to inform the development of their Proposals.

## **II. General Responsibilities**

The selected Proposer shall provide full construction management services throughout all phases of the Project, including the Barrier System Construction Project and the Pavilion Construction Project, including pre-construction, construction, and post-construction/close-out. These services shall include, but are not limited to, the following tasks: Project phasing and segmenting reviews and guidance, contractor coordination, schedule coordination, constructability reviews, formulation of construction expediting recommendations for inclusion in contractor procurements, cost estimating, contracting assistance, overall Project management, office engineering, and construction inspection services. Specifically, the selected Proposer shall, among other things:

1. Provide pre-construction services as specified below.
2. Assist with the negotiation of the PLA, if requested by BPCA, and administer and ensure compliance with the provisions of the PLA by the contractor(s) at all tiers.
3. Monitor and oversee Project performance and completion by the contractors required for performance of the Project (collectively, the “Contractors” or singularly, a “Contractor”) as well as the required work of any additional consultants or construction firms selected for the Project (the “Specialty Contractors”), with quality of workmanship and strict adherence to the Construction Documents, Project schedule, and budget being of critical importance. The selected Proposer shall work with the Design Team as necessary to facilitate and ensure the completion of all construction in accordance with these standards. The selected Proposer will manage the logistics of the Project, including but not limited to phasing, weather factors, workforce requirements, and staging.
4. Be responsible for Project coordination, preparation of overall Project schedule, and review/tracking of the Contractors’ Critical Path Method (“CPM”) schedules. The selected Proposer shall devise an overall coordinated Project Schedule that incorporates and reconciles all elements of the schedules for the Barrier System Project and the Pavilion Construction Project.
5. Be responsible for managing the overall Project schedule and all individual Contractor schedules, along with pre-construction and construction milestone dates.
6. Collect and review all pertinent information pertaining to the Project Site and its immediate surroundings (the “Work Area”) to become familiar with any factors that could interfere with, or affect, the construction progress.
7. Be responsible for overseeing all financial aspects of the Project, including, but not limited to, budgets, cost estimates, change orders, pay applications, and financial reporting as specified herein.
8. Ensure that all work performed on the Project adheres to all relevant codes and all Local, City, State, and Federal regulations and guidelines.

### **III. Pre-Construction Tasks**

During the pre-construction phase of the Project, the selected Proposer shall:

1. Provide guidance to BPCA and the design team on a) Project phasing, b) Project segmenting options, c) the development of innovative work approaches that would allow for the condensing of the overall construction duration to the greatest extent possible, d) performance of a Project cost estimate at 50% & 90% design and e) permit & bid package development for all Contractors.
  - a. Provide support and assistance to BPCA with respect to the PLA, including: Assistance to BPCA in establishing policies and practices related to the PLA.
  - b. Evaluation and review of areas of concern regarding PLA compliance, work with BPCA staff to develop solutions and resolve issues of concern;
  - c. Provision of pre-bid PLA compliance education as necessary for potential Contractors;
  - d. Addressing of Contractor inquiries on PLA hiring procedures, enforcement, reporting and payment;
2. Assist BPCA with the tasks as listed below associated with the selection of the Contractor(s), which shall consist of one or more general contractors (dependent upon the final number of construction phases or segments) for the Project:
  - i) Preparing the RFP documents for solicitation of Contractors;
  - ii) Formulating the contract for the Contractors;
  - iii) Providing responses to questions or requests for information from potential Contractors,
  - iv) Reviewing proposals from potential Contractors;
  - v) Participating in the interviews of potential general contractors;
  - vi) Consultation with BPCA regarding the selection of the Contractors, and, if requested, reviewing references; and,
  - vii) Providing advice and/or recommendations to BPCA regarding the selection of the Contractors.
3. At BPCA's request, assist in all aspects of the selection and management of specialty contractors, if any, and/or in the replacement of one or more of the Contractors, if necessary, including but not limited to: preparation or refinement of work scopes and proposal requests, proposal review and comparison, attendance at related meetings, answering of questions, evaluation of qualifications and reference review, and review and recommendation of proposals or quotes.
4. Familiarize itself with the access points and space constraints in and around the Project Site in order to facilitate Project performance and completion with the fewest possible impacts to the surrounding areas, public convenience, and the community in general.
5. Review and approve the Contractors' logistics and coordination plans, including CAD and/or BIM model coordination for the new Wagner Park pavilion, before submitting them to BPCA for approval.
6. Develop, implement, and submit for approval by BPCA construction management procedures for managing the execution of the Project, including, but not be limited to: general and special conditions, project directories, submittal processing procedures, tracking of logs (for, among other things, all Project costs, submittals, plan & specification changes, change orders, potential change orders, bulletins, field orders, unforeseen conditions), daily work reports and field reports, permits and permit compliance, Project management reports, Project summary reports, meeting minutes, change order requests,

requisitions, and site access procedures.

7. Monitor on-site Work during the pre-construction phase and for coordination of site access during the pre-construction phase in accordance with BPCA's directives.

#### **IV. Construction Tasks**

During the construction phase of the Project, the selected Proposer shall:

1. Monitor and oversee the Project and the work of the Contractors and ensure that the Project is completed in accordance with the Construction Documents, and in accordance with BPCA's objectives, budget, schedule, and specified quality standards. The selected Proposer shall manage coordination with and between the Contractors in order to perform the Work with **minimal disruption** to the adjacent areas (public and private) and **minimal impact** on the community and general public.
2. Oversee and coordinate the implementation of the soil erosion prevention plan(s) for the Project.
3. Oversee the coordination between the Contractors on matters of scheduling, sequencing, logistics, access, site management, site safety, design compliance (including CAD and/or BIM model development and coordination), regulatory and permit compliance, inspections, and labor harmony.
4. Manage overall matters of site safety and ensure that the Contractors maintain adequate fencing, barricades, signage, and safety precautions for the protection of the general public.
5. Work with BPCA and the Design Team as necessary in identifying, contacting, and arranging/participating in meetings with specialty contractors, equipment manufacturers, and industry specialists in order to determine technically viable design and construction solutions, determine the availability of materials, and develop and prepare cost estimates.
6. Administer and ensure compliance with the PLA by all prime contractors and subcontractors, including:
  - a. Collecting letters or affidavits of assent from all prime contractors and subcontractors performing work in order to ensure agreement at all tiers to comply with the terms of the PLA;
  - b. Responding to questions from contractors and subcontractors regarding compliance with the PLA;
  - c. Ensuring that the terms of the PLA are consistently applied;
  - d. Making recommendations to BPCA regarding enforcement measures to ensure the compliance with the PLA at all tiers;
  - e. Scheduling, facilitating and conducting educational meetings on the PLA as necessary to assure that contractors and subcontractors are properly oriented in compliance with the PLA;
  - f. Maintaining all required records relating to implementation of and compliance with the PLA;
  - g. Reporting promptly to BPCA any actual or anticipated failure to comply with the PLA and working with BPCA staff or consultants to develop solutions to non-compliance and resolve issues of concern;
  - h. Preparing periodic status updates on the PLA, including a description of any issues encountered and measures taken to mitigate or avoid future issues and obstacles.
7. Track the disposition of all Contractor submittals including general requirements (bonds, insurance,

etc.), schedule, procedures, materials, shop drawings, and subcontractor and supplier qualification submittals in accordance with the Construction Documents.

8. Review and approve the Contractors' payment applications before they are submitted to BPCA for approval and payment, and promptly advise BPCA whether those payment applications are complete (including required lien waivers), accurately reflect work satisfactorily completed, and are consistent with the terms of their respective contracts and the Construction Documents. If necessary, the selected Proposer shall coordinate with the Contractors to revise payment applications before they are submitted to BPCA.
9. Review and track the Contractors' CPM schedules and the Coordinated Project Schedule for conformance with contractual milestones, and shall promptly notify BPCA and the General Contractor of any actual or anticipated failure to adhere to the CPM schedules or the Coordinated Project Schedule. If the Contractors propose changes to the CPM schedule, or the Coordinated Project Schedule, the selected Proposer shall review the proposed changes, recommend approval or denial of the proposed changes, track the revised schedule(s) and adjust its inspection schedule and staffing accordingly. The selected Proposer shall be prepared to review the proposed schedule prepared by each of the General Contractors, for the Barrier System Project and the Pavilion Construction Project, in detail at the construction kickoff meeting(s).
10. Review all requests for change orders, provide cost estimates as requested by BPCA with respect to potential or requested change orders, and provide recommendations for acceptance or rejection of proposed change orders to BPCA (advising BPCA at the time of Contractor submission, but negotiating revisions, as appropriate, to the change order proposals prior to their formal submission to BPCA).
11. Submit the General Contractor's trade payment breakdown for review and approval by BPCA.
12. Provide documentation and support, as needed and requested by BPCA, for the Design Team's application for and submissions related to FEMA accreditation for the Project.
13. Track tasks and documentation related to the sustainability certification goals which are required to be met by the Contractors.
14. Track and coordinate with the Contractors all required permits and environmental approvals.

## **V. Meeting and Reporting Tasks**

With respect to meetings and reporting throughout the duration of the Project, the selected Proposer shall:

1. Administer one construction kickoff meeting each for the Barrier System Project and the Pavilion Construction Project, and promptly prepare and distribute meeting minutes for each such meeting. In the event that the Barrier System Project is divided among more than one construction contract and/or Contractor, the selected Proposer shall conduct additional kick-off meetings as appropriate.
2. On a **daily basis**, prepare reports reflecting daily activities, including, but not limited to: daily logs of the Contractors' staffing and hours on-site, weather, deliveries, disposals, special occurrences, photo documentation of work, pre-construction conditions, job progress, contractor equipment, material testing, and work performed and completed. The selected Proposer shall submit daily Project

Management reports that reflect such information via email to BPCA's Director of Construction, who is responsible for managing the Project. Daily reports shall also be retained on site and be readily available to BPCA.

3. On a **weekly basis**, schedule and conduct weekly job progress meetings with BPCA and any other relevant parties (as identified by BPCA) in order to provide updates, address BPCA's concerns, describe logistics surrounding the Barrier System Project and the Pavilion Construction Project, and to monitor each Project's schedule, as well as the Coordinated Project Schedule. Subject to BPCA's approval, the selected Proposer may combine the weekly job progress meetings for the Barrier System Project and the Pavilion Construction Project into a single weekly Project job progress meeting for all or part of the duration of the Project. In the event that the weekly job progress meetings for the Barrier System Project and the Pavilion Construction Project are conducted separately, the selected Proposer shall schedule joint coordination meetings between the Contractors and other relevant parties (as identified by BPCA) for the Barrier System Project and the Pavilion Construction Project as needed, but no less frequently than once per month. The selected Proposer shall promptly prepare and distribute meeting minutes each week in advance of the next progress meeting.
4. On a **monthly basis**, issue a Monthly Project Summary Report, which shall include a full description of the status of all aspects of the Project, including but not limited to: a brief narrative of the work status and level of completion, an assessment of whether construction targets will be met, an update on any anticipated delays or issues, the Project's financial status and cost estimates, and tracking reports. The selected Proposer shall also conduct a monthly review of the Contractors' budgets and expenditures and shall include such information in the Monthly Project Summary Report.

## **VI. Post-Construction & Close-out Tasks**

The selected Proposer shall provide post-construction and close-out services for the Project, including, but not limited to:

1. Submission of all Project records, inspection reports, and a final Project summary (including final project summaries and operating and maintenance ("O&M") manuals for both the Barrier System Project and the Pavilion Construction Project) to BPCA upon Project completion.
2. Determination, in collaboration with the Design Team, of the points of substantial completion for each Contractor with respect to its work required for the Project.
3. Upon substantial completion of the Coordination with the Design Team on the preparation of punch-list inspections the selected Proposer shall also coordinate with the Design Team punch-list inspections and . The selected Proposer will advise BPCA regarding the issuance of a certificate of substantial completion.
4. The selected Proposer shall conduct final inspections and approvals of the Project components, and advise BPCA regarding the issuance of certificates of final completion.
5. The selected Proposer shall ensure all permits and environmental approvals for the project are adhered to and closed out by the Contractor.