



**Erie Canal Harbor
Development
Corporation**

A Subsidiary of Empire State Development

ERIE CANAL HARBOR DEVELOPMENT CORPORATION

at the

University of Buffalo - Center of Excellence in Bioinformatics & Life Sciences
701 Ellicott Street - Conference Room B2-209
Buffalo, New York 14203

Meeting of the Directors

Monday

November 14, 2022 – 10:30 AM

AGENDA

FOR CONSIDERATION

1. Buffalo Waterfront Architecture & Engineering Consultant Services - Authorization to Enter into a Contract for Architecture & Engineering Consultant Services; and to Take Related Actions
2. Buffalo Waterfront Environmental Consultant Services - Authorization to Enter into a Contract for Environmental Consultant Services; and to Take Related Actions
3. First Buffalo River Marina Operations – Authorization to Enter into an Agreement for Marina Operations of First Buffalo River Marina; and to Take Related Actions

Item 1



FOR CONSIDERATION

November 14, 2022

TO: The Directors

FROM: Steven P. Ranalli

SUBJECT: Buffalo Waterfront Architecture & Engineering Consultant Services

REQUEST FOR: Authorization to Enter into a Contract for Architecture & Engineering Consultant Services; and to Take Related Actions

CONTRACT NEEDS AND JUSTIFICATION

I. Contract Summary

Consultant: Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, DPC
40 LaRiviere Drive, Suite 150
Buffalo, New York 14202

Scope of Services: Architecture & Engineering Consultant Services

Contract Term: January 1, 2023 – December 31, 2027 with option to exercise up to two (2) additional 2-year extensions

Contract Amount: \$375,000

Funding Source(s): New York Power Authority Relicensing Agreement

II. Background

For more than a decade, the Erie Canal Harbor Development Corporation (“ECHDC”) has spearheaded projects along Buffalo’s Waterfront, revitalizing the area as one of the State’s premiere placemaking destinations. Millions of dollars of investment have transformed Canalside and the Outer Harbor, together recognized as the Buffalo Waterfront, for public access, use and enjoyment. Development of this public space includes a collection of buildings, grounds and structures which support year-round activities and programming, cultural attractions, events and concessions, a multi-use trail system, bike ferry and various opportunities for shoreline access.

Stewardship of the property is critical in protecting this investment. Operations and Maintenance (“O&M”) systems have been developed to assure that grounds and facilities are well maintained, safe and functional. Property adaptation and repair is frequently required to meet changing programmatic needs and to withstand deterioration from age, heavy use and environmental impact. O&M and capital projects often

require professional architectural and engineering services to assess, plan, scope, budget and execute various projects.

III. Consultant Selection Process

On August 1, 2022, ECHDC issued a Request for Proposals (RFP) to six (6) architecture and engineering firms selected from the ESD Pre-Qualified Real Estate Development and Planning Related Consultants List. The RFP sought to retain professional architecture, landscape architecture, engineering, and environmental consultant firms and/or teams (the "Consultant") to provide documentation, assessment, design, bid assistance, construction administration and inspection services related to the operations, maintenance, preventative maintenance and capital projects for property at Canalside and the Outer Harbor.

On August 25, 2022, ECHDC received proposals from three (3) firms; Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors DPC, LiRo Engineers, Inc. and WSP USA, Inc. These proposals were reviewed and scored by the Selection Committee, and interviews were completed on October 5, 2022. Bergmann Architects, Engineers & Planners, Landscape Architects & Surveyors, DPC ("Bergmann") was ranked as the top firm by the Selection Committee.

Bergmann is a full-service architecture, engineering, and planning firm with in-house disciplines necessary to design and deliver project services including architecture, building engineering (M/E/P/S), civil engineering, waterway structures, survey, and planning. The Bergmann team brings a mix of experience and institutional knowledge having completed or in the process of completing several significant projects on the Buffalo Waterfront property.

In addition to Bergmann's in-house capabilities, the following subconsultants have been selected for the team and nearly all have worked collaboratively on multiple ECHDC projects.

- Fisher Associates | TWMLA | Landscape Architecture
- Encorus Group (SDVOB) | Structural Engineering and Communications Support
- Ravi Engineering & Land Surveying, PC (MBE) | Geotechnical Engineering
- Foit-Albert Associates Architecture, Engineering and Surveying, PC (MBE) | Survey
- JM Davidson Engineering, DPC (WBE) | Civil Engineering Support
- Sienna Environmental Technologies (MWBE) | Environmental Services
- Trophy Point Construction Services & Consulting (SDVOB) | Cost Estimating

Kimberly Baptiste, AICP, Vice President of the Northeast Buildings Division, will serve as the Principal in Charge for this project. Kimberly is a recognized leader in waterfront planning and design throughout New York State. Steven Kushner, AIA, NCARB, LEED AP will serve as Program Manager. Steven has served as Project Manager on the planning team for the Outer Harbor Access and Activation Projects and currently leads the Terminal B Capital Improvements Project team. Philip DiNicola, RA, NCARB will be the Architectural Project Manager. Philip has served as Project Manager on various Canalside planning and construction projects from the early years of redevelopment through construction of the Children's Museum.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has: a) considered proposed contractor's ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred

offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

IV. Scope of Work

The scope of professional architectural and engineering services will include a variety of O&M projects which may vary in scale and involvement on behalf of the selected consultant team. Individual O&M projects will not exceed \$250,000 in value and will often require prompt turn-around of services. Projects may include, but not be limited to, the operation, maintenance, repair, preventative maintenance, renovation, addition to or modification of the following structures, property, and systems:

- Permanent and temporary buildings and structures including, roofs, facades, windows, doors, joints, masonry/cladding systems, foundations, structural systems, interior build-out, finishes, furnishings, and equipment, etc.;
- Interior and exterior MEP utility, fire protection, security, and communications systems;
- Grounds & landscapes, ecology, horticulture, invasives species, walkways, trails, roadways, bridges, fencing, civil/drainage structures, shoreline, docks, fountains/skating rink, property equipment;
- Signage and wayfinding; and
- Environmental conditions.

Task 1 – Conditions Assessments

- Provide existing conditions documentation, surveys and geotechnical reports, and testing
- Identify and document environmental conditions
- Update existing documents to reflect documented site conditions and changes
- ALTA and updated land surveys for parcel divisions and transfers

Task 2 – Planning

- Assist with capital project planning
- Prepare feasibility studies, cost estimates, and life cycle cost analysis
- Assist with community outreach and public involvement, including online surveys and in-person information sessions.
- Develop mapping, 3D modelling, renderings, or other visual aids as required to support staff, Board, Canalside Design Review Committee, or other advisory groups understanding and decision making. 3D models will become ownership of ECHDC.
- Prepare State Environmental Quality Review Act assessments. statements, findings and/or related environmental compliance studies and actions
- Coordination with other government agencies, such as NYSDOT, DEC, USACE, City of Buffalo etc.
- Coordination with utility companies, both public and private, such as Buffalo Water Authority, Buffalo Sewer Authority, National Grid, Verizon, etc.

Task 3 – Compliance, Inspections, and Maintenance

- Prepare various code compliance reviews, permitting and regulatory requirement analysis
- Prepare health, safety, and accessibility assessments
- Provide inspections requirements and recommendations for property and equipment
- Assist in the development of preventative maintenance programs and asset protection strategies

Task 4 – Design, Engineering, and Construction Documents

- Prepare Sketches for small project scopes and proposal requests
- Prepare Schematic Designs including minimum of three options, graphics, and renderings for various projects
- Prepare Design Development documents, outline specifications, estimates, and schedules
- Prepare Construction Documents, specifications, estimates, schedules, and permit sets

Task 5 - Bidding & Construction Administration (Only on projects developed under Tasks above.)

- Prepare cost estimates and project schedules, facilitate value engineering (VE) analysis
- Assist with bidding process and bid review
- Prepare permitting materials and assist in permitting process
- Perform Construction Administration services including construction inspections, submittal and material reviews, answer RFI's & prepare clarification bulletins, review on-site construction activities, observations, and test results, verify project conformance with approved construction, attend construction coordination meetings
- Perform Commissioning services and documentation
- Provide project closeout documentation, record drawings, manuals, and operations/maintenance procedures

Task 6 - Miscellaneous and Emergency Services

- Provide services as required to address emergency repairs, unforeseen conditions or conditions resulting from weather, fire, other acts of God, and/or environmental impacts
- Provide services as required to support operations, maintenance, repairs, or projects resulting from emergency situations, unforeseen conditions, hazards, or conditions resulting from weather and environmental impacts

V. Contract Terms and Conditions

The Contract will cover fees and expenses for a period of five years, through December 31, 2027.

ECHDC and the Consultant will enter into a Contract whereby the Consultant will receive a term contract for five (5) years with an annual budget of \$75,000, for a total of \$375,000. At the end of five (5) years, ECHDC shall have the option to enter into two (2) additional 2-year extensions on the same terms and conditions set forth herein.

The project funding source shall be the New York Power Authority Relicensing Agreement.

VI. Non-Discrimination & Contractor and Supplier Diversity

ESD's Non-Discrimination and Contractor & Supplier Diversity policy will apply to this contract. The Contractor shall be required to solicit and utilize Minority and Women-owned Business Enterprise ("MWBEs") and Service-Disabled-Veteran-owned Business Enterprises (SDVOBs) for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8 and 9 NYCRR § 252.2(m)) to achieve an overall MWBE Participation Goal of 30% and an SDVOB Participation Goal of 3%.

VII. Environmental Review

Empire State Development staff has determined that the action, which involves entering into a contract for the purposes of engaging a design consultant team to undertake assessment, planning, detailed architectural design and engineering of the Project without committing the agency to undertake any future project, constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required at this time.

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed consultant; (2) authorize the Corporation to enter into a contract with Bergmann Architects, Engineers, Landscape Architects & Surveyors, DPC for an amount not to exceed \$375,000; and (3) to take all related actions.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

X. Attachments

Resolution

November 14, 2022

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – Buffalo Waterfront Architecture & Engineering Consultant Services - Authorization to Enter into a Contract for Architecture & Engineering Consultant Services and to Take Related Actions

BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Erie Canal Harbor Development Corporation (the "Corporation"), the Corporation hereby finds Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, DPC to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Bergmann Architects, Engineers, Landscape Architects & Surveyors, DPC for a base contract amount of THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$375,000), for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further and be it further

RESOLVED, that the President of the Corporation or his designee(s) be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

* * *

Item 2



FOR CONSIDERATION

November 14, 2022

TO: The Directors

FROM: Steven P. Ranalli

SUBJECT: Buffalo Waterfront Environmental Consultant Services

REQUEST FOR: Authorization to Enter into a Contract for Environmental Consultant Services; and to Take Related Actions

CONTRACT NEEDS AND JUSTIFICATION

I. Contract Summary

Consultant: LiRo Engineers, Inc.
690 Delaware Avenue
Buffalo, NY 14209

Scope of Services: Environmental Consultant Services

Contract Term: January 1, 2023 – December 31, 2027 with option to exercise up to two (2) additional 2-year extensions

Contract Amount: \$250,000

Funding Source(s): New York Power Authority Relicensing Agreement

II. Background

For more than a decade, the Erie Canal Harbor Development Corporation (“ECHDC”) has spearheaded projects along Buffalo’s Waterfront, revitalizing the area as one of the State’s premiere placemaking destinations. Millions of dollars of investment have transformed Canalside and the Outer Harbor, together recognized as the Buffalo Waterfront, for public access, use and enjoyment. Development of this public space includes a collection of buildings, grounds and structures which support year-round activities and programming, cultural attractions, events and concessions, a multi-use trail system, bike ferry and various opportunities for shoreline access.

Stewardship of the property is critical in protecting this investment. Operations and Maintenance “O&M” systems have been developed to assure that grounds and facilities are well maintained, safe and functional. Property adaptation and repair is frequently required to withstand environmental impact, deterioration

from age, heavy use and changing programmatic needs. O&M and capital projects often require professional environmental consulting services to assess, plan, scope, budget and execute various projects.

III. Consultant Selection Process

On September 12, 2022, ECHDC issued a Request for Proposals (RFP) to five (5) engineering firms selected from the ESD Pre-Qualified Real Estate Development and Planning Related Consultants List. The RFP sought to retain professional environmental consultant firms and/or teams (the "Consultant") to provide documentation, assessment, design, bid assistance, construction administration and inspection services related to environmental services and capital projects for property at Canalside and the Outer Harbor.

On September 26, 2022, ECHDC received proposals from two (2) firms; LiRo Engineers, Inc. and WSP USA, Inc. These proposals were reviewed and scored by the Selection Committee and a selection was completed on October 11, 2022. LiRo Engineers, Inc. ("LiRo") was ranked as the top firm by the Selection Committee.

LiRo provides in-house environmental, engineering, architecture and construction management service. LiRo will be staffing this project with key personnel from the Buffalo office who bring a mix of experience and institutional knowledge having completed numerous projects for ECHDC including environmental consulting, design services and construction management projects on the Buffalo Waterfront property.

In addition to LiRo's in-house capabilities, the following subconsultants have been selected for the team and nearly all have worked collaboratively on multiple ECHDC projects.

- Environmental Design & Research, PC (WBE)
- KHEOPS Architecture, Engineering and Survey, DPC (MBE)
- Popli Design Group (MBE)
- Hampton Clarke, Inc. (WBE)
- Trophy Point (SDVOB)

Robert Kreuzer, Principal-in-Charge has over 30 years of consulting experience involving site redevelopment, and construction management. Mr. Kreuzer served as the principal for Wilkeson Pointe Redevelopment and various Canalside Construction Management projects. Martin Wesolowski, PE, CCM, Senior Project Manager, is LiRo's Western New York Engineering Manager and a Certified Construction Manager with diverse engineering and environmental experience. Mr. Wesolowski will be responsible for the internal quality, project planning and integration, communications, scope/cost/schedule controls, and design deliverables, to construction administration, and commissioning activities.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has: a) considered proposed contractor's ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

IV. Scope of Work

The scope of professional environmental services will include a variety of projects which may vary in scale and involvement on behalf of the selected consultant team. Individual environmental projects will not

exceed \$250,000 in construction value and will often require prompt turn-around of services. Projects may include, but not be limited to, environmental conditions of the following structures, property, and systems:

- Permanent and temporary buildings and structures including, roofs, facades, windows, doors, joints, masonry/cladding systems, foundations, structural systems, interior build-out, finishes, furnishings, and equipment, etc.;
- Interior and exterior MEP utility, fire protection, security, and communications systems; and
- Shoreline, grounds & landscapes, ecology, horticulture, invasives species, walkways, trails, roadways, bridges, fencing, civil/drainage structures, docks, fountains/skating rink, property equipment.

Task 1: Compliance with New York State Department of Environmental Conservation (NYSDEC): Greenbelt Shoreline Trail

Properly maintain compliance responsibilities, including inspection of Greenbelt shoreline trail and bank stabilization project as required by NYSDEC and regulatory/permit review for 901 Fuhrman Blvd. and the Greenbelt shoreline trail. To prepare Site Management Plans and properly maintain compliance responsibilities as future projects are completed (Appendix B: Greenbelt PRR).

Task 2: Compliance with New York State Department of Environmental Conservation (NYSDEC) and United States Environmental Protection Agency (EPA) Regulations: First Buffalo River Marina

Modify and/or maintain existing documents associated with SWPPP/Spill Prevention, Control and Countermeasures (SPCC) & RCRA (if applicable), as well as monitoring and reporting measures as outlined in these documents. Additionally, assistance may be needed in filing subsequent Notice of Intent (NOI) for Multi-Sector General Permit (MSGP Section Q and R) and State Pollution Discharge Elimination System (SPDES) requirements henceforth at the First Buffalo Marina. The Consultant will be required to prepare requested documents for ECHDC review and signature, as well as submit all required documents to NYSDEC on ECHDC's behalf. In addition, the Queen City Bike Ferry Landing will be reviewed for any applicable regulations. (Appendix C: First Buffalo River Marina SWPPP)

Task 3: Outer Harbor Site Management Plans

Monitor existing Site Management Plan (SMP) on an annual basis and add project areas to the SMP at the completion of each construction project. Consultant will assume all costs/fees associated with submission of the annual report.

Consultant will review existing SMP to ensure continued monitoring, perform an annual site walk and inspection of the project area and prepare a report including photos and maintenance recommendations. The area for the SMP will increase as noted below at the completion of each project:

1. Bike Park Site Management Plan:
 - Consultant will review existing SMP to ensure continued monitoring, perform an annual site walk and inspection of the project area and prepare a report including photos and maintenance recommendations. Inspection and maintenance recommendations of all Bike Park tracks and trails are to be included in this inspection.
2. Terminal B Site Management Plan:

- Beginning in 2024, Consultant will review existing SMP including the addition of the Terminal B Project area to ensure continued monitoring, perform an annual site walk and inspection of the project area and prepare a report including photos and maintenance recommendations.
3. Bell Slip Site Management Plan:
 - Beginning in 2025, Consultant will add the Bell Slip Project area to the existing SMP to ensure continued monitoring, perform an annual site walk and inspection of the project area and prepare a report including photos and maintenance recommendations.
 4. Wilkeson Pointe Site Management Plan:
 - Beginning in 2026, Consultant will add the Wilkeson Pointe Project area to the existing SMP to ensure continued monitoring, perform an annual site walk and inspection of the project area and prepare a report including photos and maintenance recommendations.

Task 4: On Call and Emergency Services

Provide “on call” consulting and engineering services on a per project or hourly basis for assisting with operations, maintenance, capital improvements and emergent needs at ECHDC properties and buildings. Possible services might include, but not be limited to, testing related to soil contamination, asbestos, hazardous waste, mold, lead, underground storage tanks, invasive species control/management and erosion control/remediation, site/building improvements, etc.

Scope of Services:

1. Conditions Assessments
 - Provide existing conditions documentation, surveys and geotechnical reports, and testing
 - Identify and document environmental conditions
 - Update existing documents to reflect documented site conditions and changes
 - ALTA and updated land surveys for parcel divisions and transfers
2. Planning
 - Assist with capital project planning
 - Prepare feasibility studies, cost estimates, and life cycle cost analysis
 - Assist with community outreach and public involvement, including online surveys and in-person information sessions
 - Develop mapping, 3D modelling, renderings, or other visual aids as required to support staff, Board, Canalside Design Review Committee, or other advisory groups understanding and decision making. 3D models will become ownership of ECHDC.
 - Prepare State Environmental Quality Review Act assessments. statements, findings and/or related environmental compliance studies and actions
 - Coordination with other government agencies, such as NYSDOT, DEC, USACE, City of Buffalo etc.
 - Coordination with utility companies, both public and private, such as Buffalo Water Authority, Buffalo Sewer Authority, National Grid, Verizon, etc.
3. Compliance, Inspections, and Maintenance
 - Prepare various environmental code compliance reviews, permitting and regulatory requirement analysis
 - Prepare health, safety, and accessibility assessments
 - Provide inspections requirements and recommendations for property and equipment
 - Assist in the development of preventative maintenance programs and asset protection strategies

4. Design, Engineering, and Construction Documents
 - Prepare Sketches for small project scopes and proposal requests
 - Prepare Schematic Designs including minimum of three options, graphics, and renderings for various projects
 - Prepare Design Development documents, outline specifications, estimates, and schedules
 - Prepare Construction Documents, specifications, estimates, schedules, and permit sets
5. Bidding & Construction Administration (only on projects developed under Tasks above)
 - Prepare cost estimates and project schedules, facilitate value engineering (VE) analysis
 - Assist with bidding process and bid review
 - Prepare permitting materials and assist in permitting process
 - Perform Construction Administration services including construction inspections, submittal and material reviews, answer RFI's & prepare clarification bulletins, review on-site construction activities, observations, and test results, verify project conformance with approved construction, attend construction coordination meetings
 - Perform Commissioning services and documentation
 - Provide project closeout documentation, record drawings, manuals, and operations/maintenance procedures
6. Miscellaneous and Emergency Services
 - Provide services as required to address emergency repairs, unforeseen conditions or conditions resulting from weather, fire, other acts of God, and/or environmental impacts
 - Provide services as required to support operations, maintenance, repairs, or projects resulting from emergency situations, unforeseen conditions, hazards, or conditions resulting from weather and environmental impacts

V. Contract Terms and Conditions

The Contract will cover fees and expenses for a period of five years through December 31, 2027.

ECHDC and the Consultant will enter into a Contract whereby the Consultant will receive a term contract for five (5) years with an annual budget of \$50,000 for a total of \$250,000. At the end of the five (5) years, ECHDC shall have the option to enter into two (2) additional 2-year extensions on the same terms and conditions set forth herein.

The project funding source shall be the New York Power Authority Relicensing Agreement.

VI. Non-Discrimination & Contractor and Supplier Diversity

ESD's Non-Discrimination and Contractor & Supplier Diversity policy will apply to this contract. The Contractor shall be required to solicit and utilize Minority and Women-owned Business Enterprise ("MWBEs") and Service-Disabled-Veteran-owned Business Enterprises (SDVOBs) for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8 and 9 NYCRR § 252.2(m)) to achieve an overall MWBE Participation Goal of 30% and an SDVOB Participation Goal of 3%.

VII. Environmental Review

Empire State Development staff has determined that the action, which involves entering into a contract for the purposes of engaging a design consultant team to undertake assessment, planning, detailed architectural design and engineering of the Project without committing the agency to undertake any future project, constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required at this time.

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed consultant; (2) authorize the Corporation to enter into a contract with LiRo Engineers, Inc. for an amount not to exceed \$250,000; and (3) to take all related actions.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

X. Attachments

Resolution

November 14, 2022

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – Buffalo Waterfront Environmental Consultant Services - Authorization to Enter into a Contract for Environmental Consultant Services and to Take Related Actions

BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Erie Canal Harbor Development Corporation (the "Corporation"), the Corporation hereby finds LiRo Engineers, Inc. to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with LiRo Engineers, Inc. for a base contract amount of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000), for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further and be it further

RESOLVED, that the President of the Corporation or his designee(s) be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

* * *

Item 3



FOR CONSIDERATION

November 14, 2022

TO: The Directors

FROM: Steven P. Ranalli

SUBJECT: First Buffalo River Marina Operations

REQUEST FOR: Authorization to Enter into an Agreement for Marina Operations of First Buffalo River Marina; and to Take Related Actions

CONTRACT NEEDS AND JUSTIFICATION

I. Contract Summary

Consultant: Dale’s Marine Service, LLC
69 Carrow Street
Orchard Park, NY 14127

Scope of Services: Marina Operator Services

Contract Term: April 1, 2023 – March 31, 2033, with option to exercise up to two (2) additional 5-year extensions

Contract Amount: Not applicable

Funding Source(s): Not Applicable

II. Background

Since 2016, Erie Canal Harbor Development Corporation (“ECHDC”) has owned the First Buffalo River Marina, approximately 13 acres of property at 10 & 32 Fuhrmann Blvd. on Buffalo’s Outer Harbor. The property includes a 115-slip boat marina with outdoor storage for approximately 300 boats, a boat launch pad, administration building, approximately 150 spaces for trailer parking and/or public patrons, as well as a boat repair building.

ECHDC has worked for the past six years with a marina operator and staff to ensure continuity in management of the space as a private marina. All parties associated with the property understand that operations are necessary to ensure that the First Buffalo River Marina, as well as surrounding ECHDC properties, are given appropriate attention for the purposes of security, service and maintenance.

The current marina operator's contract is set to expire on March 31, 2023, and pursuant to NYS procurement laws, ECHDC was required to publicly solicit a request for proposals. ECHDC will contract with a qualified and experienced marina operator for the purposes of providing private services to the boating community, as well as maintenance responsibilities (with renewable options). In exchange for conferring to the right to offer services and generate profits, ECHDC will receive a base rent and share of revenues.

III. Contractor Selection Process

On August 10, 2022, ECHDC issued an RFP through the NYS Contract Reporter seeking proposals from qualified operators (or teams of companies) to manage the marina for the exclusive right to offer private services to the boating community. The RFP garnered significant interest with 56 companies viewing it on NYS Contract Reporter. On August 31, 2022, ECHDC received one (1) proposal from the current operator, Dale's Marine Services.

Based on the overall review and scoring, the committee has deemed Dale's Marine Service, LLC, to be a suitable team to continue management of marina operations at First Buffalo River Marina.

Dale's Marine Service, LLC, has over 25 years of experience in marine service management, most of which has taken place on Buffalo's Outer Harbor. The team has proven to understand ECHDC's current and future visions for the First Buffalo River property, as well as the rest of ECHDC property on the Outer Harbor. Dale's Marine Service ensured ECHDC that they will continue to maintain current slip-holder services, as well as continued enhancement with the organization and cleanliness of the site. Dale's Marine Service displayed a thoughtful, balanced and economically viable approach for marina operations with an emphasis on service needs of the patrons. Additionally, they've provided a capital commitment that aligns with the vision of ECHDC for improvements with grounds and services at the site.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has; a) considered proposed Contractor's ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed Contractor to be responsible.

IV. Scope of Work

Dale's Marine Service, LLC, will be wholly responsible for the following:

Marina Operations Management – comprehensive operations and maintenance plan to ensure a safe and enjoyable recreational boating facility in a cost-effective manner.

Maintenance and Repair of Facilities and Equipment - responsible to maintain buildings, structures, grounds, roadways, fencing, docks, launches, equipment, etc., and provide all tools, fixtures, furnishings, equipment and other appurtenances, as well as qualified staff, necessary to successfully operate the marina. Provide and maintain slip holder restrooms, parking space and picnic areas.

Environmental Operational Requirements – adherence to all applicable federal, state, local environmental and safety laws, rules, regulations, policies, and requirements.

Vessel Monitoring/Inspection – adherence to all applicable federal, state, local monitoring programs for vessels to ensure and safety and security of property and surrounding areas.

Security – provision of all necessary security measures to protect patrons, guests, employees, and all other individuals from any disturbance or other occurrence that may be attributable to the Marina operations.

Utilities, Trash and Debris - responsible for all utility costs including, but not limited to, electricity, fuel oil and gasoline, natural gasoline, and water and sewer services, as required by Marina operations.

Accounting and Financial Reporting – accounting and record keeping practice in accordance with generally accepted principles and procedures with submission for review on a scheduled basis.

Property Rent Fee – submission of payment within format of accepted payment structure.

Insurance and Indemnifications – procurement of insurance in accordance with previously outlined requirements.

V. Contract Terms and Conditions

ECHDC and the Contractor will enter into an Agreement whereby the Contractor will receive a term agreement for ten (10) years. After the conclusion of the initial 10-year term, ECHDC shall have the option to exercise up to two (2) additional 5-year extensions on the same terms and conditions set forth herein.

ECHDC will receive rent and a 6% share of the gross revenue on a yearly basis from the Contractor. The rent will be \$24,000 in year one and will increase 2% each year, such that the payment will increase to \$28,682 in year ten of the base term.

The Agreement will also include requirements for the fulfillment of the Operator’s proposed capital plan, an expected \$400,000 investment in the first five years of operation. The improvements include, among other features, temporary maintenance structure, new fencing, landscape/lighting improvements and re-surfacing of access roads. ECHDC and the Contractor will work closely with regards to the operational and planning processes, as well as engaging applicable government entities. The Contractor will submit to ECHDC quarterly financial reports, where applicable.

VI. Non-Discrimination & Contractor and Supplier Diversity

Pursuant to New York State Executive Law Articles 15-A and 17-B, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of New York State certified minority-and women-owned business enterprises (MWBEs) and service-disabled veteran-owned businesses (SDVOBs) in the performance of ESD projects and procurements. The Office of Contractor and Supplier Diversity has reviewed the project and has determined that MWBE participation goals are inappropriate and infeasible and need not be applied to this project.

VII. Environmental Review

Empire State Development Staff has determined that the requested authorization to enter into an operating agreement for a marina operator, which involves maintenance of an existing marina facility with no anticipated substantial changes in any permit conditions or scope of operations at the facility,

constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with the requested authorization.

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed Contractor; (2) authorize the Corporation to enter into an agreement with Dale's Marine Service, LLC on the terms contained in these materials and (3) take all related actions.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

X. Attachments

Resolution

November 14, 2022

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – First Buffalo River Marina Operations - Authorization to Enter into an Agreement for Marina Operations of First Buffalo River Marina; and to Take Related Actions

RESOLVED, that upon the basis of the materials presented to this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Erie Canal Harbor Development Corporation (the "Corporation"), the Corporation is hereby finds Dale's Marine Service, LLC, to be responsible; and bet it further

RESOLVED, that the Corporation is hereby authorized to enter into an agreement with Dale's Marine Service, LLC, or its affiliate for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the President of the Corporation or his designee(s) be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

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