

Request for Proposals

PARKING LOT RENOVATIONS

Design Services



Issued by:

Erie Canal Harbor Development Corporation

A subsidiary of the New York State Urban Development Corporation
d/b/a Empire State Development
95 Perry Street, Suite 500
Buffalo, NY 14203

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Proposals Due: 3:00 PM, January 9th, 2020

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Contents

I.	Invitation to Submit Proposals.....	1
II.	Background and Context.....	1
A.	Buffalo Inner Harbor Planning & Canalside	1
B.	The Parking Lots.....	5
III.	Parking Lot Characteristics.....	5
IV.	Parking Lots – Project Overview & Components.....	5
V.	Scope of Services	6
A.	Task 1: Project Scoping, Concept Design (10% Design) and Schematic Design (30% Design) 6	
B.	Task 2: Design Development (60% Design)	7
C.	Task 3: Construction Documents (75-100% Design).....	7
D.	Task 4: Signature Submittal	8
E.	Task 5: Bidding and Awarding.....	9
F.	Task 6: Construction Administration	9
G.	Task 7: Construction Inspection.....	10
VI.	Proposal Requirements.....	11
A.	Section 1: Experience, Structure, and Personnel.....	11
B.	Section 2: Methodological Approach.....	12
C.	Section 3: Additional Information.....	12
D.	Section 4: Proposed Schedule.....	12
E.	Section 5: NYS Licensing Requirements.....	13
F.	Section 6: Fee Proposal.....	13
VII.	Additional Procurement Forms & Requirements	13
A.	State Finance Law Sections 139-j and 139-k forms	14
B.	Vendor Responsibility	16
C.	Iran Divestment Act	16
D.	Non-Discrimination and Contractor & Supplier Diversity Requirements.....	17
E.	Encouraging the Use of NYS Businesses in Contract Performance Form.....	23
F.	Certification Under State Tax Law Section 5-a	23
G.	Schedule A.....	24
H.	Project Sunlight.....	24
I.	Executive Order (EO) 177 Certification.....	24
VIII.	Insurance Requirements.....	24

IX.	Statement of Limitations	25
X.	Time and Place of Submissions.....	26
XI.	Selection Process & Evaluation Criteria.....	27
A.	Skills Required.....	27
B.	Evaluation Criteria.....	28
C.	Selection Process	28
XII.	Pre-Submittal Conference.....	29
XIII.	Project Cost & Procurement Schedule	30
XIV.	Additional Information	30

I. INVITATION TO SUBMIT PROPOSALS

The Erie Canal Harbor Development Corporation (“ECHDC”), a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”), is seeking to retain professional engineering, landscape architecture, and land surveying consultant firms and/or teams (the “Consultant”) to provide design, bid and construction administration and inspection services related to the design of surface parking infrastructure facilities on two New York State Department of Transportation parcels (“Parking Lots”) located to the west of Canalside in Buffalo, New York (the “Project”).

II. BACKGROUND AND CONTEXT

A. Buffalo Inner Harbor Planning & Canalside

After roughly a decade of planning and building the initial components of a redevelopment of a portion of Buffalo’s Inner Harbor at the foot of Main Street on the Buffalo River (later deemed locally as “Erie Canal Harbor”), ECHDC was established in 2005 to create a locally-focused ESD subsidiary to spearhead ongoing waterfront development to restore economic growth to Buffalo based on the region’s legacy of pride, urban significance and natural beauty.

ECHDC has begun Phase 3 of waterfront redevelopment efforts, first initiated by ECHDC’s parent agency, ESD. Phase 1 involved the relocation of the Buffalo and Erie County Naval & Military Park from the foot of Main Street its current location slightly downstream in Veterans Park, completed in 2003. Phase 2, the Erie Canal Harbor project, involved the restoration and re-watering of the Commercial Slip (the historic western terminus of the Erie Canal) as a navigable water feature, a new interpretation of the Central Wharf, and the reconstruction of a series of Medina Sandstone paved streets that once crossed the area, which was completed in 2008.

Phase 3 centers around “Canalside” - a mixed use, urban entertainment destination, which encompasses both the Phase 1 and 2 (i.e., Erie Canal Harbor Block) land areas, along with the following surrounding city blocks:

- The **Aud Block** (the former location of the Memorial Auditorium or “Aud”), upon which a series of historically-aligned, non-navigable, canal water elements were completed in 2014 that host the region’s largest ice skating venue and other winter activities, as well as a host of summer recreational programming and activities.
- The **Donovan Block**, which was once home to the General William Donovan State Office Building and has since been developed as “One Canalside,” a mixed hotel, office, and retail development organized around the “East Canal” water element, with a final mixed-use building planned on a parcel south of the canal fronting on Scott Street;
- The **Webster Block**, which served for several decades as surface parking and has since been redeveloped as “Harborcenter”, a mixed-use facility which houses a series of indoor ice rink facilities that serve as a practice venue for the Buffalo Sabres and a multitude of amateur hockey events, along with hotel, entertainment and retail facilities; and

- The **Commercial Slip Block**, which consists of public property to the northwest of Commercial and Pearl streets, a large portion of which is used as surface parking for the Buffalo Municipal Housing Authority, with the balance used as commercial parking lots.

The overall Canalside project area is bounded on the north by Upper Terrace and Exchange Streets and Perry Boulevard; on the east by Washington Street and Seymour H. Knox III Plaza; on the south by Perry Street and the Buffalo River and on the west by Erie Street, Marine Drive, and Pearl and Commercial Streets (see **Figures 1 & 2**). This area enjoys a number of benefits, including an efficient roadway network that supports regional and international access; convenient access to the NYS Thruway and NFTA's Metro Rail system; and proximity to a host of local and regional natural, historic, and cultural amenities, including but not limited to Key Bank Center, the Buffalo River Corridor, and the Cobblestone Historic District. Canalside annually hosts over 1.5 million visitors with an array of arts and cultural experiences, recreational activities, regular programming, and concerts/ special events capitalizing on the diversified resources in the region. Ultimately, upon full build out, Canalside will provide various year-round offerings and experiences, including restaurants, entertainment venues, retail, cultural attractions, residential units, and public open space as an integral part of Buffalo's waterfront.

The Canalside Project is further described in the Modified General Project Plan ("MGPP") adopted in 2012 (and last amended in 2018). The MGPP can be found at: <https://esd.ny.gov/erie-canal-harbor-development-corporation-projects>.

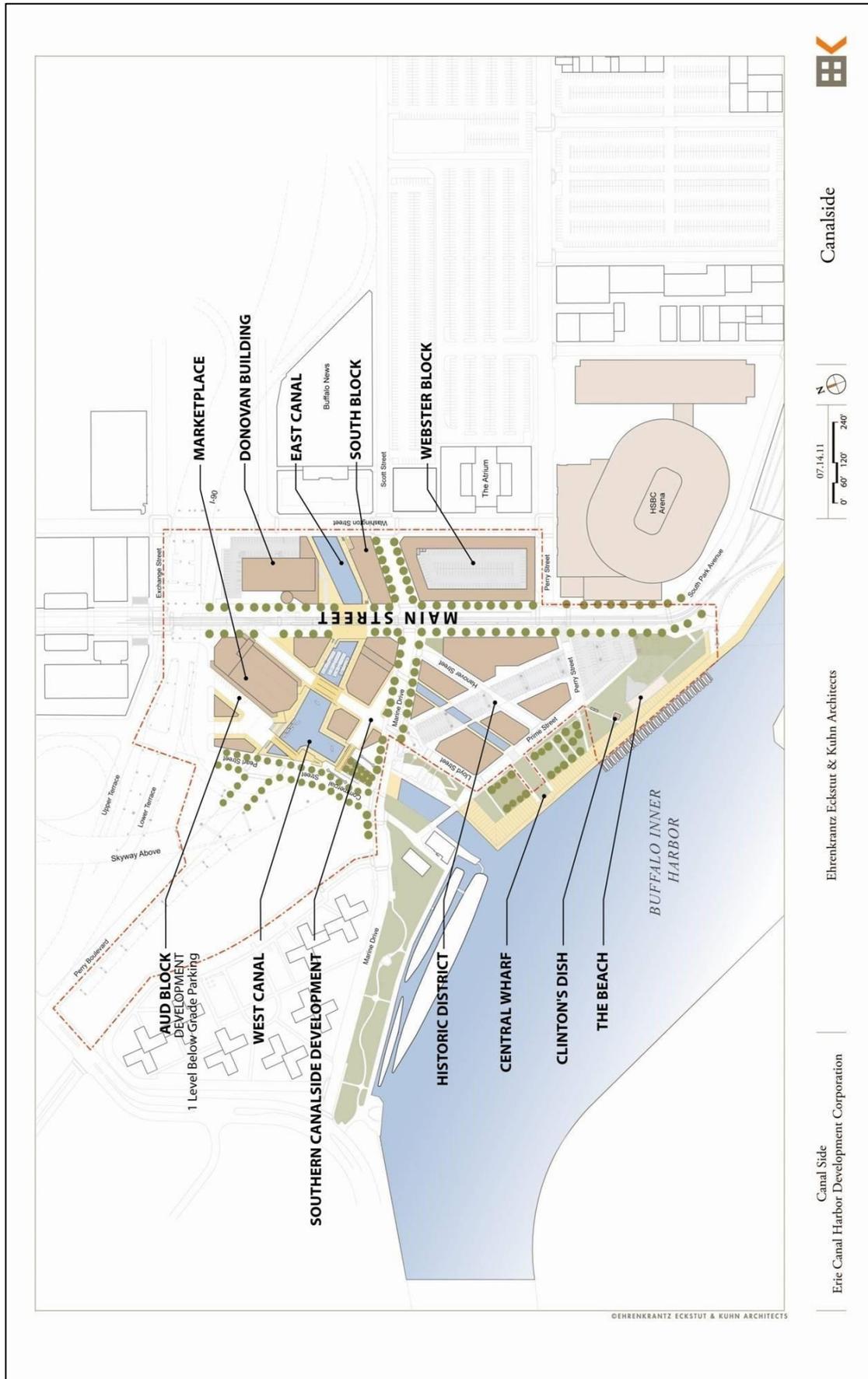


Figure 1
 2013 Modified General Project Plan – Illustrative Site Plan
 Canalside Project

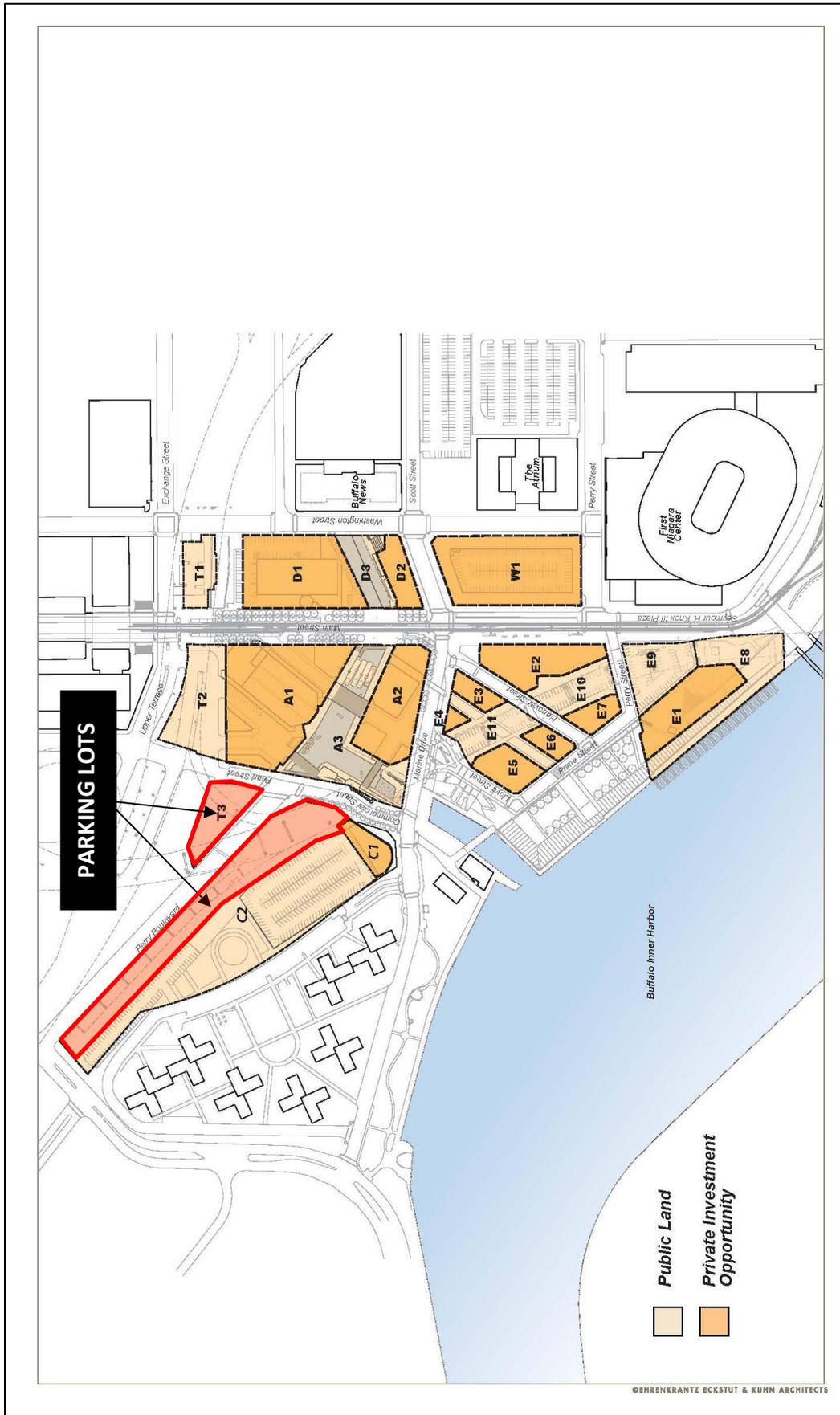


Figure 2
Parcel Plan - Modified General Project Plan Map - Canalside Project

B. The Parking Lots

The recent addition of Explore and More’s Childrens Museum to Canalside and the forthcoming mixed-use projects at both the South and North Aud Block sites has brought forward the need to examine nearby support facilities. As ECHDC continues to invest public funds into the redevelopment of Canalside, creating public spaces and commercial opportunities, the expectation is an increase in visitors. Additionally, the new occupants of these projects, which includes residential units, require allocated parking. The management of these two parking lots will provide ECHDC the opportunity to better regulate parking for new businesses and Canalside residents.

ECHDC will hold the Use and Occupancy Permits from the New York State Department of Transportation for the two existing parking lots as of April 1, 2020.

III. PARKING LOT CHARACTERISTICS

The Parking Lots consist of 1.46 acres of space (~64,000 SF), sitting on New York State Department of Transportation property. The southern most parking lot is confined by Perry Boulevard to the north, Pearl Street to the east, and Buffalo Municipal Housing parking along the south and west boundaries. There is a slight grade change across the property from south to north. The second parking lot is located north of Perry Boulevard with an east boundary of Pearl Street and a north boundary of Lower Terrace.

The two existing open-air parking lots are beneath the Skyway and have functional limitations due to the Skyway piers within the site. The current surface of the lots is a combination of asphalt and crushed stone.

IV. PARKING LOTS – PROJECT OVERVIEW & COMPONENTS

ECHDC is seeking to retain professional engineering, landscape architecture and land surveying consultant firms and/or teams (the “Consultant”) to provide planning, design, bid and construction administration services related to the parking lot infrastructure located to the west of Canalside. The Parking Lot renovation shall include the following elements:

- Maximize parking in both lots, providing accessible parking spaces per Code at a minimum.
- Improve the perimeter of the parking lots which could include limited fencing and landscape features.
- Provide 60 secure parking spaces with a fob-access gate in one parking lot.
- Improve surface and site drainage. Options could include pervious paving material.
- Add site lighting.
- Provide area for ECHDC storage containers and Canalside “back of house” operation.

V. SCOPE OF SERVICES

ECHDC is seeking a Consultant and/or team to provide necessary services including, but not limited to, the scope of work described generally in the following sections.

A. Task 1: Project Scoping, Concept Design (10% Design) and Schematic Design (30% Design)

1. The Consultant will be responsible for working with ECHDC, Be Our Guest Ltd, and Canalside Partners **over a twelve-week period**, to further expand and define the programming requirements for the parking lot and site features, develop multiple concept designs, and selecting a preferred overall parking layout to be developed through schematic design.
2. The Consultant will be responsible to provide an updated topographical and boundary survey of both sites.
3. The Consultant shall develop conceptual parking layout alternatives (minimum 3), site-sections, and alternatives for site features (ie. lighting, gate access, fencing, paving material).
4. The Consultant shall develop/apply evaluation criteria to rationally assess and weigh the relative advantages and disadvantages of each alternative.
5. The Consultant will also be responsible to prepare a concept program for:
 - a) Parking Lot Cross Sections and associated features
 - b) Plan/design of utility facilities: stormwater drainage, electrical, communications (and/or conduits for future installation)
 - c) Site lighting, sign features, and parking accessories
6. A preferred concept plan will be selected by ECHDC to be progress through schematic design. The Consultant will be responsible for working with ECHDC to reach an understanding regarding the design requirements and performance requirements of the project as they pertain to Code.
7. The Consultant will be responsible for providing an outline specification, identifying specification sections and major building material systems and finishes.
8. The Consultant will be responsible to provide a schematic design estimate of probable costs. The estimate shall include major components and identify escalation factors.
9. The Consultant will be responsible to prepare a schedule for the construction period, identify phased work and any long-lead time for specialty items.
10. The Consultant will be responsible for issuing schematic design documents that are in compliance with the program, the budget, and the schedule as set forth by ECHDC.

Schematic Design Deliverables:

Drawings: In general, drawings shall indicate the scale and relationship of project components. All plans have spaces generally defined, with representative area plans generally graphically fixed. Layout for parking with preliminary sections shall be provided. Preliminary civil and landscape drawings shall be provided. MEP systems shall be defined (as applicable), representative plan area coordinated.

Other: Outline specification, estimate of probable cost, and schedule.

B. Task 2: Design Development (60% Design)

1. The Consultant will be responsible for working with ECHDC and the parties previously listed **over an eight-week period** to complete design development for the Project.
2. The Consultant shall further develop design for parking layout, utilities, parking accessories, and all construction fencing/staging.
3. All miscellaneous consultant work shall be sufficiently developed that could impact design, performance and coordination.
4. The Consultant will be responsible for providing a draft of all specification sections and front-end documents.
5. The Consultant will be responsible to update the schematic design estimate of probable costs.
6. The Consultant will be responsible to prepare an update schedule for the construction period.
7. The Consultant will be responsible for issuing design development documents that are in compliance with the program, the budget, and the schedule as set forth by ECHDC.

Design Development Deliverables:

Drawings: Site drawings shall have all site elements defined, with the site plan graphically fixed and site geometry fixed. Landscape plans indicate planting and hardscape, plant schedule complete, and details. MEP (as applicable) distribution zones with indication of underground or above ground, and details. Representative larger scale partial details at 1 1/2" or 3" scale. Finish design of amenities and other accessories is initiated.

Other: Design and performance requirements confirmed, draft specification sections, updated estimate of probable cost, and updated construction schedule.

C. Task 3: Construction Documents (75-100% Design)

1. The Consultant will be responsible for working with ECHDC and the parties previously listed over a **ten-week period** to complete all construction documents required for the site work and parking lot design, including construction fencing.
2. The Consultant will be responsible for providing complete specification sections and front-end documents.

3. The Consultant will be responsible to prepare a final estimate of probable cost.
4. The Consultant will be responsible to prepare a final schedule for the construction period.
5. The Consultant will be responsible to submit any engineering or other calculations used in the design. Design calculations shall be submitted in hardcopy format and bound.
6. The Consultant will be responsible for issuing construction documents that are in compliance with the program, the budget, and the schedule as set forth by ECHDC.
7. The Consultant will be responsible to confer with all necessary regulatory agencies and incorporate their comments into the Construction Documents.
8. The Consultant will be responsible to secure all necessary permits.
9. The Consultant will be responsible to develop the scope of work for a Request for Proposals for special inspection services required during construction.
10. The Consultant will be responsible to prepare documentation for, and present the information to, Erie Canal Harbor Development Corporation Design Review Committee. This will be followed by a presentation to the City of Buffalo's Planning Board for courtesy review. Since the parcels are located within Canalside, the Canalside Design Guidelines supersede the Buffalo Green Code.

Construction Documents Deliverables:

Deliverables will occur in two submissions, (1) 75% Construction Documents, and (2) 100% Construction Documents.

1) 75% Construction Documents:

- Drawings: All required drawings shall be considered 75% complete or greater.
- Other: Design and performance requirements re-confirmed, draft-final specification sections, 75% estimate of probable cost, draft-final construction schedule, draft-final energy report, 75% calculations, draft of special inspections RFP scope of work, and draft permits as detailed above.

2) 100% Construction Documents:

- Drawings: All required drawings shall be considered 100% complete and final.
- Other: Design and performance requirements re-confirmed, final specification sections, final estimate of probable cost, final construction schedule, calculations, final special inspections RFP scope of work, and permits as detailed above.

D. Task 4: Signature Submittal

1. The Consultant will be responsible, following a review and incorporation of comments from

ECHDC, to produce original Contract Documents, stamped and signed by an architect or engineer appropriately licensed to practice in the State of New York, for signature by ECHDC.

2. The Consultant will be responsible to submit to ECHDC all final construction quantities.

Signature Submittal Deliverables:

Drawings: Two sets of original, stamped drawings (paper copies), electronic CAD files (AutoCAD and pdf).

Other: Two sets of unbound original specifications. Cost estimate and schedule shall be submitted in electronic form (original format and pdf), as well as hardcopy.

E. Task 5: Bidding and Awarding

1. The Consultant will be responsible to provide assistance during the contract(s) advertising and award process, including assistance in pre-qualifying potential bidders, attendance at pre-bid meetings, reviewing and providing responses to bidder inquiries, preparing and issuing addendums as needed, responding to Requests for Information submitted by potential bidders, and assistance in reviewing bids.
2. The Consultant will be responsible to provide a written recommendation as to the low bid submission and contract award.

F. Task 6: Construction Administration

1. The Consultant will be responsible to provide construction contract administration services in conformance with ECHDC's construction schedule.
2. The Consultant Team shall be a representative of, and shall advise and consult with, the ECHDC during the construction phase.
3. The Consultant will be responsible to provide Office Engineering services, including:
 - a. Check detailed construction drawings, shop and erection drawings, and substitutions submitted by the Contractor for compliance with permits and contract documents.
 - b. Review specific non-routing laboratory, shop, and mill test reports of materials and equipment as directed by the ECHDC.
 - c. Address Request for Information (RFIs) from the Contractor and Building and Safety inspectors.
 - d. Prepare record (as-built) drawings on original contract documents as per the data supplied by Contractor.
 - e. Prepare preliminary and final punch lists for substantially completed construction work.

- f. The Consultant shall review and prepare responses to requests for information from the Contractor.
4. The Consultant will be responsible to provide Field Engineering services, including:
- a. Make periodic visits to the site to observe the work in progress and provide appropriate reports, including attendance at weekly progress meetings. Provide written reports from site visits.
 - b. Observe and report to the ECHDC on any performance test required by contract documents.
 - c. Attend final inspections of Project's completed construction contracts.
 - d. Assist the Owner in commissioning of all systems.

G. Task 7: Construction Inspection

- 1. The Consultant will be responsible to provide construction inspection services in conformance with ECHDC's construction schedule.
- 2. The Consultant will be responsible to provide Inspection services, including:
 - a. Performing daily site inspection to determine if facilities are complete and being constructed in compliance with the Contract Documents, approved contract change orders, and any other permit requirements.
 - b. Performing field inspection and other quality control activities including necessary materials testing.
 - c. Preparing punch-list and inspection of punch-list corrective actions and review redlined record drawing (As-Built) plans of all aspects (mechanical, electrical, etc.) of project.
 - d. Participating in all required conferences and progress meetings on a weekly basis.
 - e. Reviewing and inspecting Contractor's work for compliance with Contract Documents on a daily basis, and with approved contract change orders.
 - f. Monitoring of corrective actions taken by the Contractor needed to fix work that is not in compliance with Contract Documents.
 - g. Reviewing and approving Contractor's survey layouts, line, grade, elevation, etc. of all work.
 - h. Keep daily dairies (log), fill out Incident (accident) Reports, and take pictures of the project. A daily Inspection Report identifying work done by the Contractor and pay items worked on shall be completed by the next business day for review and filing.

- i. Reviewing Contractor’s compliance with all regulatory permits (including NPDES, SWPPP, etc.) and mitigation measures.
- j. Reviewing Contractor’s compliance with workplace safety and health standards and notification to ECHDC of noncompliance.
- k. The Consultant shall be responsible for providing services during construction close-out. Within one year of a Notice of Completion perform a site inspection, check all warranty items and provide punch list to ECHDC.

VI. PROPOSAL REQUIREMENTS

Consultants are required to submit one (1) original (marked “ORIGINAL” with signed forms and certifications), nine (9) hard copies, and one (1) electronic pdf copy (flash drive) of the Proposal. Proposals shall be concise and prepared exactly in the order presented herein.

Proposals shall be limited to no more than 40 single-sided or 20 double-sided pages. Three-ring binders will not be accepted. Required Forms do NOT count against the page limit.

The proposal should include a cover letter or statement demonstrating the respondent’s understanding of the scope of services. The cover letter or statement should also describe the Respondent’s understanding of ECHDC’s goals for the Project and how the respondent would work with ECHDC to achieve those goals.

Proposals shall be prepared exactly in the order presented below. Sections 1-6 and “Additional Forms” (see Section VII) should be bound in a single volume. Please limit Sections 1 and 2 to a total of fifteen (16) one-sided pages. Examples of relevant projects and resumes should be included in Section 3.

Proposals shall contain the following information:

A. Section 1: Experience, Structure, and Personnel

1. Each Respondent shall submit materials that highlight its unique strengths, design talents, and approach to site renovations, breadth of knowledge and experience, and experience with the similar projects.
2. A history of the Consultant’s experience providing engineering and site services to economic development organizations, municipalities, other governmental entities, private developers, not-for-profits and civic organizations.
3. A description of the Consultant’s organizational structure noting the principals, project manager(s), and professional staff who would work directly with ECHDC for the duration of this Project. Include resumes of key people in Section C.
4. Overall description of the Consultant’s relevant work. In Section C, include examples of up to five (5) similar projects that the Consultant has completed, with a focus on projects within urban environments.

5. Respondents should provide an overview or synopsis of projects where the Consultant worked as Lead Engineer and/or Architect. Include the client, the name of contact persons who are able to provide references from the client, a description of the nature of the work, the size and complexity of the project, total budget, construction cost, total design cost, the dollar amount of fees for the firm, and the agreed fee arrangements.
6. Provide references. Include the projects worked on and the names of contact persons who are able to provide references.
7. Representation that the Consultant can devote significant and appropriate design staff and support staff to the project for all phases of design and construction.
8. Any other information that you believe would make the Consultant's work on behalf of ECHDC superior to that of other respondent's information.

B. Section 2: Methodological Approach

1. A description of how the Consultant would work with ECHDC, and project stakeholders in the design and construction of planned renovations.
2. A description of how the Consultant intends to address the scope of services set forth in Section V of this RFP.
3. A description of how the Consultant intends to maintain schedule and budget, including specific methods that would be employed.
4. A list of subconsultants by respective discipline.
5. A description of how the Consultant's response will meet goals for contracting to Minority and Women-owned business enterprises on this project.

C. Section 3: Additional Information

1. Resumes of key staff (principals, project manager(s) and senior professional staff).
2. Examples of up to five (5) major projects that the firm has completed in its specific discipline(s) involving major projects in urban environments. Include the client, the name of a contact person who is able to provide a reference, a description of the nature of the work, the size and complexity of the project, construction cost, design costs, the dollar amount of the design fee for this firm, and the agreed fee arrangements.

D. Section 4: Proposed Schedule

ECHDC anticipates issuing a notice to proceed in January/February 2020. Prospective Consultants shall detail key tasks using the Scope of Service in Section V as a base and outline a proposed Project schedule of all work and deliverables. The parking lots must be renovated and open for use by May 11, 2021.

E. Section 5: NYS Licensing Requirements

The Consultant and sub-consultants required to certify documents shall present evidence that they are licensed, as applicable, to practice engineering, architecture, landscape architecture, land surveying in the State of New York.

F. Section 6: Fee Proposal

1. A proposed fee for all Consultant services delineated by task, as outlined in Section V Scope of Services. The proposal must include a detailed staffing plan broken down by task. Assume six months for Construction Administration and Construction Inspection phase.
2. The hourly rate of each principal and staff member whose resume is provided or whose job category may be required.
3. A list of anticipated reimbursable expenses and the rate charged for each without markup. Please indicate under reimbursables, a detailed list of working models, presentation models, renderings, or other work product to be furnished during each state of services which is not included in basic services covered by the proposed fee schedule and the cost for each.

Although proposed fees will be taken into account, ECHDC reserves the right to negotiate a lower or different fee structure with any Consultant that is selected.

VII. ADDITIONAL PROCUREMENT FORMS & REQUIREMENTS

Additional requirements for this RFP are described below. Relevant forms, where required to be submitted, must be originally signed in the “Original” version of the Proposal, and included in the Proposal in the same order as listed below:

- State Finance Law §§139-j and 139-k forms;
- New York State Vendor Responsibility Questionnaire For-Profit Business Entity;
- Iran Divestment Act Statement;
- Non-Discrimination and Contractor & Supplier Diversity Requirements;
- Encouraging the Use of NYS Businesses in Contract Performance Form;
- Certification Under State Tax Law Section 5-a;
- Schedule A (for review only; no separate form required);
- Project Sunlight (for review only; no separate form required); and
- Executive Order (“EO”) 177 Certification.

Each of the items is discussed in the following sections.

A. Conflicts of Interest

Respondent must attest it has read, understood and will comply with the following provisions <https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June-2019.pdf>. ESD shall have the right to disqualify any respondent to this RFP or terminate any contract entered into as a result of this RFP should ESD determine that the Respondent has violated any of these requirements.

1. Gifts and Offers of Employment: Respondent has not and shall not during this procurement and during the negotiation of any contract resulting from this procurement, offer to any employee, member of director of ESD, any gift, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the offer was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director. Respondent may not make any offers of employment or discuss the possibility of such offers with any employee, member or director of ESD who is involved in this procurement and/or resulting contract negotiation within at least 30 days from the time that the employee's involvement in this matter closed.
2. Disclosure of Potential Conflicts: Respondent shall disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers/employers of the Respondent or former officers and employees of ESD, in connection with your rendering services enumerated in this RFP. If a conflict does or might exist, Respondent must describe how it would eliminate or prevent it.
3. Disclosure of Ethics Investigations: Respondent must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any ongoing investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission"), and if so, a description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

B. State Finance Law Sections 139-j and 139-k forms

State Finance Law Sections 139-j and 139-k (collectively, the "Procurement Requirements") apply to this RFP. These Procurement Requirements: (1) govern permissible communications between potential respondents and ECHDC or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP.

Compliance with the Procurement Requirements requires that all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the “Restricted Period”), be conducted only with the designated contact person listed below; the completion by Respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law and periodic updating of such forms during the term of any contract resulting from this RFP.

Respondents must submit the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law as part of their submittal. Copies of these forms are available at:

http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf.

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by prospective respondents during the Restricted Period, make a determination of the responsibility of Respondents and make all such information publicly available in accordance with applicable law. If a prospective respondent is found to have knowingly and willfully violated the State Finance Law provisions, that prospective respondent and its subsidiaries, related or successor entities will be determined to be a non-responsible Respondent and will not be awarded any contract issued pursuant to this solicitation. In addition, two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State governmental procurement contract.

The designated contact for this solicitation is:

Mark J. Wendel, AIA

Senior Director of Design

95 Perry Street, Suite 500

Buffalo, NY 14203

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This is not a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at:

<http://esd.ny.gov/CorporateInformation/RFPs.html>

(under “ESDC Policy Regarding Permissible Contacts under SFL 139”).

All potential Respondents are solely responsible for full compliance with the Procurement Requirements. Both the prime consultant and any sub-consultants complete the forms required above.

C. Vendor Responsibility

All Respondents to this RFP must be “responsible,” which in this context means that they must have the requisite financial ability, organizational capacity and legal authority to carry out its obligations under this RFP, and in addition must demonstrate that both the Respondent and its principals have and will maintain the level of integrity needed to contract with New York State entities such as ESD. Further, the Respondent must show satisfactory performance of all prior government contracts. Accordingly, the contract to be entered into between ECHDC and the Contractor, if any, shall include clauses providing that the Contractor remain “responsible” throughout the term of the contract, that ECHDC may suspend the contract if information is discovered that calls into question the responsibility of the contracting party, and that ECHDC may terminate the contract based on a determination that the contracting party is non-responsible. On request, model language to this effect will be provided to any Respondent to this RFP.

To assist in the determination of responsibility, ECHDC requires that all respondents to this RFP register in the State's Vendor Responsibility System (“VendRep System”). The VendRep System allows business entities to enter and maintain their Vendor Responsibility Questionnaire information in a secure, centralized database. New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Respondents are to file the required Vendor Responsibility Questionnaire online via the VendRep System or may choose to complete and submit a paper questionnaire. Please include a copy of your VendRep submission receipt with your proposal. If you submit a paper questionnaire please submit it using certified mail and provide a copy of the return receipt.

To enroll in and use the VendRep System, see the System Instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the Office of the State Comptroller’s Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us.

Respondents opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website http://www.osc.state.ny.us/vendrep/forms_vendor.htm and execute accordingly pertaining to the company’s trade industry. Per the website, respondents are to “Select the questionnaire which best matches the business type (either For-Profit or Not-For-Profit) and business activity (Construction or Other).” For ECHDC’s RFPs concerning the purchase and redevelopment of real estate, it is most common for a Respondent to complete the form as a “Non-Construction” company. Unless the Respondent is primarily a Construction firm, the Respondent should thus fill out the Vendor Responsibility Questionnaire as a “Non-Construction” entity, either as a For-Profit or Not-For-Profit entity, depending on the Respondent organization type.

D. Iran Divestment Act

Every Proposal made to ECHDC pursuant to a competitive solicitation must contain the following statement, signed by the Respondent on company letterhead and affirmed as true under penalty of perjury:

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

The list in question is maintained by the Office of General Services. No Response that fails to certify compliance with this requirement may be accepted as responsive.

E. Non-Discrimination and Contractor & Supplier Diversity Requirements

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A and 5 NYCRR §§140-145 ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of ESD contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, ECHDC hereby establishes **an overall goal of 30% for MWBE participation, 15% for NYS-certified Minority-owned Business Enterprise ("MBE") participation and 15% for NYS-certified Women-owned Business Enterprise ("WBE") participation** (based on the current availability of qualified MBEs and WBEs). A contractor ("Contractor") on the subject contract ("Contract") must document its good faith efforts to provide meaningful participation by MBEs and WBEs as subcontractors or suppliers in the performance of the Contract and the Contractor agrees that ESD may withhold payment pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how ESD will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

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

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE

goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a bidder on the Contract (“Bidder”) agrees to demonstrate its good faith efforts to achieve its goals for the utilization of MWBEs by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a Bidder may arrange to provide such evidence via a non-electronic method by contacting ESD’s Office of Contractor and Supplier Diversity at OCSD@esd.ny.gov.

- A. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to OCSD at OCSD@esd.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

ESD may disqualify a respondent as being non-responsive under the following circumstances:

- a) If a respondent fails to submit an MWBE Utilization Plan;
- b) If a respondent fails to submit a written remedy to a notice of deficiency;
- c) If a respondent fails to submit a request for waiver; or
- d) If ESD determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to ESD, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all of the terms and conditions [SCHEDULE B - PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES](#). The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the “Work”), except where the Work is for the beneficial use of the respondent,

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

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, OCSD-1, to ESD with its bid or proposal.

If awarded a Contract, respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by ESD on a quarterly basis during the term of the Contract.

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

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

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

The required forms can be found at the following web addresses:

- **Form OCSD-1 (required with Proposal):** <https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf>
- **Form OCSD-2 (required with Proposal):** <https://esd.ny.gov/sites/default/files/OCSD-2-Staffing-Plan.pdf>
- Form OCSD-3:
- <https://esd.ny.gov/sites/default/files/OCSD-3-Workforce-Utilization-Report.xlsx>
- **Form OCSD-4 (required with Proposal):** <https://esd.ny.gov/sites/default/files/OCSD-4-Utilization-Plan.pdf>
- Form OCSD-5: <https://esd.ny.gov/sites/default/files/OCSD-5-Waiver-Request-Form.pdf>
- Form OCSD-6: <https://esd.ny.gov/sites/default/files/OCSD-6-Compliance-Report.pdf>

In the event that the above links are unavailable or inactive, the forms may also be requested from OCSD at OCSD@esd.ny.gov.

Diversity Practices

ESD has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Respondents is practical, feasible, and appropriate. **Accordingly, respondents shall be required to include as part of their response to this procurement the Diversity Practices Questionnaire.**

<https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/OCSDDiversityPracticesQuestionnaire.pdf>

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. ESD recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of ESD contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Contract Goals

- A. **ECHDC hereby establishes an overall goal of 2% for SDVOB participation**, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: <http://ogs.ny.gov/Core/SDVOBA.asp>.

Questions regarding compliance with SDVOB participation goals should be directed to the Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.

- B. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract.

SDVOB Utilization Plan

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on **Form OCSD-4**.
- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet

the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to ESD.

- C. ESD will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of ESD acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by ESD, a request for a partial or total waiver of SDVOB participation goals on OCSD-5. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- E. ESD may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
 - (a) If a Bidder fails to submit an SDVOB Utilization Plan;
 - (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - (c) If a Bidder fails to submit a request for waiver; or
 - (d) If ESD determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, ESD shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

Request for Waiver

- A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at ESD for guidance.
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form OCSD-5, accompanied by supporting

documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by ESD at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, ESD shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to ESD but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If ESD, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (OCSD-6) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, ESD may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to OCSD.

Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by ESD with certified SDVOBs whom ESD determined were capable of fulfilling the SDVOB goals set in the Contract.
- (4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- (5) Other information deemed relevant to the waiver request.

Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to ESD during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form OCSD-6 available on the ESD website and should be completed by the

Contractor and submitted to ESD, by the 10th day of each month during the term of the Contract, for the preceding month's activity to: OCSD@esd.ny.gov.

Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

F. Encouraging the Use of NYS Businesses in Contract Performance Form

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, Respondents for this ECHDC 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.

In order for ECHDC to assess the use of New York State businesses in each Proposal, ECHDC requests that each Respondent complete and included in their Proposal the "Encouraging Use of New York State Businesses in Contract Performance" form, included at:

<https://cdn.esd.ny.gov/CorporateInformation/Data/ENCOURAGINGUSEOFNEWYORKSTATEBUSINESSESINCONTRACTPERFORMANCE.pdf> .

G. Certification Under State Tax Law Section 5-a

Any contract resulting from this solicitation is also subject to the requirements of State Tax Law Section 5-a ("STL 5-a"). STL 5-a prohibits ESD from approving any such contract with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services (Please note: the law specifically having a value over \$300,000 and is not registered for sales and compensating use tax purposes. To comply with STL 5-a, all Respondents to this solicitation must include in their Proposals a properly completed Form ST-220-CA, or an "Affidavit of Non-Applicability of State Tax Law §5-A" that the Respondent is not required to be registered with the State Department of Taxation and Finance.

A copy of the "ST-220-CA" form and the "Affidavit of Non-Applicability of State Tax Law §5-A" are accessible at:

- https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf
- http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf .

Also in accordance with the requirements of STL 5-a, any contract resulting from this solicitation will require periodic updating of the certifications contained in Form ST-220-CA. Solicitation responses that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered for contract award.

Only the prime consultant completes Form ST 220-CA, but Schedule A to Form ST 220-CA requires detailed information from the sub-consultants, such as tax ID number, etc., if applicable.

Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the sub-consultants.

H. Schedule A

Following final selection of a Contractor, ECHDC will prepare a contract defining all project terms and conditions and the Contractor's responsibilities in conformance with "Schedule A," which can be found at:

https://esd.ny.gov/sites/default/files/ScheduleA-Services_Materials-3818.pdf

Please note Respondents do not need to complete the entire Schedule A with the submission of their Proposal. However, Respondents should still review these terms, which are standard in all ECHDC contracts, and raise any concerns present prior to submission of their Proposal, as the Contractor will need to accept these terms prior to contract execution.

I. Project Sunlight

This procurement is subject to the Public Integrity Reform Act of 2011. Under the Public Integrity Reform Act of 2011, "appearances" (broadly defined and including any substantive interaction that is meant to have an impact on the decision-making process of a state entity) before a public benefit corporation such as ECHDC by a person (also broadly defined) for the purposes of procuring a state contract for real property (as contemplated in this RFP) must be reported by ECHDC to a database maintained by the State Office of General Services that is available to members of the public. If in doubt as to the applicability of Project Sunlight, Respondents and their advisors should consult the Laws of 2011, Ch. 399 for guidance.

J. Executive Order (EO) 177 Certification

In accordance with Executive Order No. 177 (issued on February 3, 2018, available here: <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO177.pdf>) any entity that provides goods or services to ESD must certify that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the New York State Human Rights Law. **Accordingly, all bidders must submit an EO 177 certification form with their proposal.**

K. W-9 Form

Provide a completed W-9 form (<https://www.irs.gov/pub/irs-pdf/fw9.pdf>), submit with proposal.

VIII. INSURANCE REQUIREMENTS

The selected Consultant must show evidence of the following insurance requirements (at a minimum and to the extent applicable):

- Commercial General Liability insurance - \$1 million per occurrence / \$2 million aggregate;
- Excess Umbrella Liability insurance – N/A;
- Must show evidence of Worker's Compensation & NY State Disability Benefits Liability at State statutory limits;
- Employers Liability Insurance:
 - \$1,000,000 Bodily Injury each Accident;
 - \$1,000,000 Bodily Injury by Disease – Policy Limit;
 - \$1,000,000 Bodily Injury by Disease – Each Employee;
- Auto Liability insurance - \$1 million each accident;
- Professional Liability (Errors + Omissions) - \$1 million per occurrence/ \$1 million aggregate; and

NYS Urban Development Corporation d/b/a ESD and ECHDC must be named as additional insured on a primary and non-contributory basis. Waiver of subrogation in favor of NYS UDC d/b/a ESD applies.

IX. STATEMENT OF LIMITATIONS

The RFP, submissions from Respondents to this RFP, and any relationship between ECHDC and Respondents arising from or connected or related to this RFP, are subject to the specific limitations and representations expressed below, as well as the terms contained elsewhere in this RFP.

By responding to this RFP, Respondents are deemed to accept and agree to this Statement of Limitations. By submitting a response to this RFP, the entity acknowledges and accepts ECHDC's rights as set forth in the RFP, including this Statement of Limitations.

The issuance of this RFP and the submission of a Response by any firm or the acceptance of such Response by ECHDC does not obligate ECHDC in any manner whatsoever.

ECHDC, reserves the right: (i) to amend, modify, or withdraw this RFP; (ii) to revise any requirements of this RFP; (iii) to require supplemental statements or information from any responding party; (iv) to accept or reject any or all responses thereto; (v) to extend the deadline for submission of responses thereto; (vi) to negotiate or hold discussions with any respondent and to correct deficient responses which do not completely conform to the instructions contained herein; and (vii) to cancel, in whole or part, this RFP, for any reason or for no reason. ECHDC may exercise the foregoing rights at any time without notice and without liability to any Respondent or any other party for its expenses incurred in the preparation of responses hereto or otherwise. Responses hereto will be prepared at the sole cost and expense of each Respondent.

All information submitted in response to this RFP is subject to the Freedom of Information Law ("FOIL"), which generally mandates the disclosure of documents in the possession of ECHDC upon the request of any person, unless the content of the document falls under a specific exemption

to disclosure. If any Respondent wishes to claim that any information submitted in its response to this RFP constitutes a Trade Secret or is otherwise exempt from disclosure under FOIL, such claim must be made at the time of the response, and must be in writing supported by relevant and material arguments.

ECHDC reserves the right, in its sole discretion, without liability, to utilize any or all of the RFP Responses, including late Responses, in its planning efforts. ECHDC reserves the right to retain and use all the materials and information, and the ideas, suggestions therein, submitted in response to this RFP (collectively, the "Response Information") for any purpose. Each Respondent must grant an unconditional and perpetual license without charge to ECHDC to use any copyright or other legally protected rights in and to the Response Information. By submitting a Response, each Respondent waives any and all claims against ECHDC, ESD and the State, relating to the retention or use of the Response Information. All proposals, upon submission to ECHDC, shall become its property for use as deemed appropriate. By submitting a proposal, Respondents covenant not to make any claim for or have any right to damages because of any misinterpretation or misunderstanding of the specification, or because of any misinformation or lack of information.

This RFP shall not be construed in any manner to implement any of the actions contemplated herein, nor to serve as the basis for any claim whatsoever for reimbursement of costs for efforts expended in preparing a Response to the RFP. ECHDC will not be responsible for any costs incurred by Respondents related to preparing and submitting a Response to this RFP, attending oral presentations, or for any other associated costs.

Should ECHDC determine that negotiations with the selected Respondent will not result in an executable agreement, ECHDC may begin negotiations with the next-best-value Respondent without again requesting proposals.

X. TIME AND PLACE OF SUBMISSIONS

Respondents will not receive compensation or reimbursement of any expenses associated with preparing and/or submitting the proposal.

Respondents are required to submit proposals prior to **3:00 PM on Thursday, January 9, 2020**. Responses shall be firmly sealed in an envelope or box and contain the Respondent's name and return address.

Please be advised that under no circumstances will ECHDC obligate itself to consider a response which is received after the deadline or does not include the basic items described above.

Responses shall be delivered to:

Mark Wendel
Senior Director of Design
Erie Canal Harbor Development Corporation
Attn: Proposal for Parking Lots Renovation
95 Perry Street, Suite 500
Buffalo, New York 14203

ECHDC reserves the right to reject a submittal if any document or item listed in this RFP is incomplete, improperly executed, indefinite, ambiguous, and/or is missing. Additionally, factors such as, but not limited to the following may also disqualify a respondent without further consideration:

- Evidence of collusion among Respondents;
- Any attempt to improperly influence any member of the evaluation panel or Committees;
- Discovery that a Respondent purposely misled or knowingly provided false or inaccurate information in a submittal;
- A Respondent's default under any type of agreement, which resulted in the termination of that agreement;
- Existence of any unresolved litigation or legal dispute between the Respondents and ECHDC, ESD, and/or the State of New York.

ECHDC reserves the right to reject any and all submittals and to waive any informalities or irregularities in procedure.

ECHDC reserves the right to create a "short-list" of the highest-graded submittals and interview such short-listed firms/teams to reach a recommended Consultant.

XI. SELECTION PROCESS & EVALUATION CRITERIA

ECHDC reserves the right to make any and all decisions regarding the selection of proposals submitted, as well as the capacity to consider proposals received after the deadline.

A. Skills Required

The selected Consultant team should be proficient and have demonstrated experience in projects of a similar nature. The following minimum qualifications of the Consultant (prime) submitting proposals to be considered for evaluation include:

- Ten years' experience providing engineering and site services for projects of similar scope, complexity and visibility;

- Experience on five projects of a similar nature and size (i.e., parking structures, utility, site renovations projects);
- Experience managing large sub-consultant teams.

B. Evaluation Criteria

In evaluating proposals submitted pursuant to this request; the ECHDC places high value on the following factors, not necessarily in order of importance:

- Approach in methodology with respect to the scope of services that demonstrates maximum comprehension of and ability to provide such services;
- Commitment of principals to lead the team and devote time to the project;
- Experience of Consultant and staff being assigned to the project in general, and in particular, providing consulting services to municipalities, economic development agencies, and/or other governmental agencies.
- Quality of work product as demonstrated in submitted work samples of past architecture projects;
- Quality of work product including client satisfaction and problems that may have arisen during construction reflecting on the constructability of the design drawings;
- Efforts representing outstanding principals of design quality and sustainability;
- Ability of the prime Consultant to identify subconsultants with the necessary qualifications for a project of this significance and complexity.
- Ability of the Consultant to complete projects with fast-track design schedules and to maintain budget.
- Conformity with or exceeding applicable ECHDC policies noted herein, including specific policies relating to non-discrimination and affirmative action subcontracting goals.
- Cost of services.

C. Selection Process

Final selection will be based on the Proposal score (100 points total) and the interview performance score (100 points total).

ECHDC reserves the right to:

- Seek clarification and revisions of proposals
- Seek a final and best offer from those firms short-listed.

- Make an award under the RFP in whole or in part.
- Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring full and complete understanding of a proposal and/or to determine a respondent's compliance with the requirements of the solicitation.
- Make revisions to the scope of work after contract award to ensure that the project goals are met.

It is expected that a maximum of three (3) applicants will be selected, or "short-listed" for interviews. Interviews by ECHDC will be as needed. Interviews are tentatively scheduled to be held on **Thursday, January 30, 2020** at the ECHDC Office; prospective Consultants shall make themselves available on this date to be at ECHDC offices in Buffalo for an interview. 'Short-Listed' applicants will be notified by close of business on **January 16, 2020**.

Selection for interviews will be based on an independent evaluation of the submitted proposals using the factors listed below. Selection for interviews shall be based on "best value", made in accordance with the following evaluation criteria and weights as follows:

- Experience/qualifications of the proposed Consultant team and staff to undertake the Engineering requirements of the Project – 30 points;
- Experience/qualifications of the proposed Consultant team and staff to undertake the Landscape Architectural and Planning requirements of the Project – 30 points;
- Quality of work product as demonstrated in submitted work samples of past engineering and architecture projects, including projects and efforts representing outstanding principals of design quality – 10 points;
- Ability of the Consultant to maintain schedule and budget – 10 Points;
- Cost of Services – 15 Points; and
- Program/ability of the Consultant to meet MWBE contracting goals of the Project, as evidenced in their Diversity Practices Questionnaire and subcontracting plans – 5 points.

ECHDC reserves the right to forego the interview phase in the event of only one qualified response.

XII. PRE-SUBMITTAL CONFERENCE

ECHDC staff will be made available at a non-mandatory, pre-submittal meeting at 2:00 PM Eastern Standard Time (EST) on **December 12, 2019** at 95 Perry Street, Suite 500, Buffalo, NY. Respondents will have the opportunity to ask questions about the Project and/or submittal requirements of this RFP. For room planning purposes, **please contact Loul Rizek at 846-8200 prior to close of business December 10, 2019** to advise of your attendance at the pre-submittal meeting.

XIII. PROJECT COST & PROCUREMENT SCHEDULE

The total project cost will be established by ECHDC after scope negotiations are completed. A cost plus fixed fee compensation payment method will be used.

The major projected milestones on the consultant selection schedule are as follows:

- | | | |
|----|--------------------------|-------------------|
| 1. | RFP Advertised | December 5, 2019 |
| 2. | Pre-Proposal Conference: | December 12, 2019 |
| 3. | Proposals Due: | January 9, 2020 |
| 4. | Short List Notification: | January 16, 2020 |
| 5. | Interviews: | January 30, 2020 |
| 6. | ECHDC Board Approval: | February 2020 |

The Contract Term is expected to begin in March 2020 and end in June 2021, with final bid documents tentatively scheduled for September 2020.

XIV. ADDITIONAL INFORMATION

Any all questions or requests for additional information or documents will be accepted no later than close of business on **December 30, 2019** and can only be made to:

Mark Wendel, AIA

Senior Director of Design, ECHDC
95 Perry Street, Suite 500
Buffalo, New York 14203
(716) 846-8200
Eriecanalharbor@esd.ny.gov

Questions shall be submitted in written form and answers will be sent via e-mail. Written answers to questions will be made available via RFP Addenda posted to the *NYS Contract Reporter* website. Any additional information that may become available at any point in this process will also be made available via RFP Addenda.

Erie Canal Harbor Development Corporation

Request for Proposals Checklist

I _____, a principal of the firm _____ certify that the following information has been submitted as part of the response to this Request for Proposals.

- Submitted all required information with respect to the Proposal, including but not limited to information specifically outlined in Section V.
- Submitted hard copy and electronic copies of the proposal (Section VIII)
- Completed and submitted State Finance Law Sections 139-j and 139-k forms (Section V.D)
- Completed and submitted ST-220-CA Form or affidavit (Section V.D)
- Copy of VendRep receipt (Section V.D)
- Completed and Equal Employment Opportunity Policy Statement (Form OCSD-1, Section V.D)
- Completed and submitted Iran Divestment Act Statement (Section V.D)
- Completed and submitted Use of NYS Business Form (Section V.D)

Note: Incomplete responses may not be considered by Erie Canal Harbor Development Corporation

Signed: _____

Name: _____

Date: _____

Phone: _____

E-mail: _____