

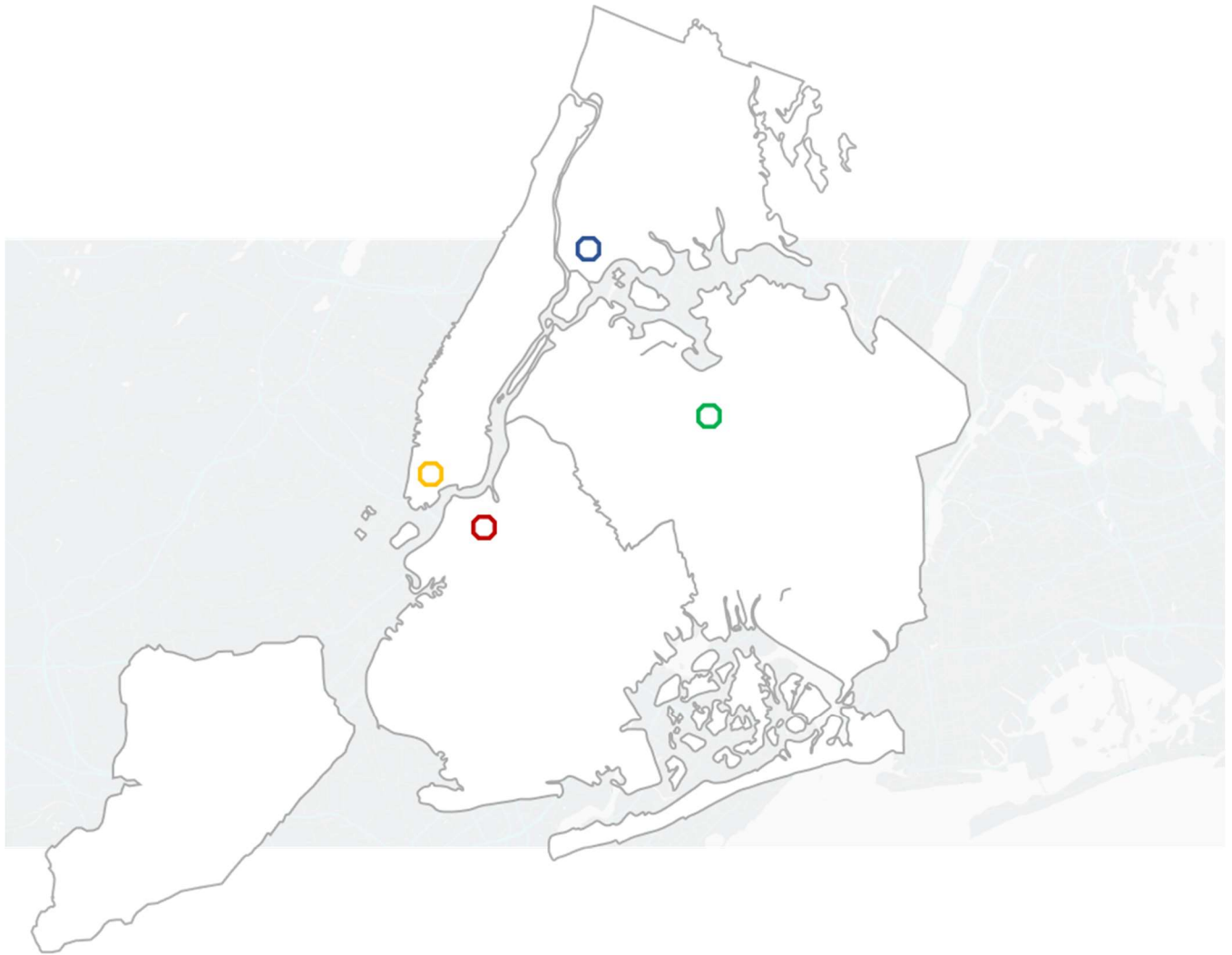
# Request for Qualification

## The Bronx Site Preparation

**BX**

**NYC BOROUGH-BASED JAILS PROGRAM**

A DESIGN-BUILD PROGRAM



PIN: 8502021CR0001P-3P

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## PREAMBLE

*This preamble is provided for informational purposes. In the event of discrepancies between the contents of this preamble and the main body or exhibits of this RFQ, the provisions within the main body or exhibits of the RFQ will prevail.*

New York City is at a transformational moment, rethinking and redoing the way in which its justice system operates to ensure it is as small, safe and fair as possible. Uniquely in the nation, the City has achieved record reductions in both crime and incarceration, even as it has lightened the touch of enforcement. Today, the City has the lowest rates of crime and incarceration of any big city in the nation, relying less on police and jails than it once did and more on neighborhood-based and preventive efforts. In the midst of this transformation, the City is also closing its outdated jails, which for decades have been isolated on Rikers Island, which sits in the East River, and building instead facilities in four of the City's five boroughs, closer to communities, public transportation, services and courts.

The City is seeking to create buildings that are equal in ambition to the transformational changes that have taken place and continue to unfold in the City's criminal justice system. The City's new jails must be civic assets, valuable to the communities within which they will be located and to the people who are incarcerated, work, and visit them. These facilities must be beacons of high-quality civic architecture that integrate into the immediate neighborhood context and are assets to all New Yorkers. The buildings will offer an aspirational model of how to use detention—sparingly, with a focus on the specific characteristics of detained populations and their needs and shaped by principles of procedural justice—to achieve a safer and fairer city.

The City will build four modern, humane facilities in the Bronx, Brooklyn, Manhattan and Queens by 2027 that will house no more than 3,300 people in total—the lowest jail population since 1920. This is part of a once in many generations opportunity to build a smaller and more humane justice system that includes facilities grounded in dignity and respect, offering better connections to and space for families, attorneys, courts, medical and mental health care, education, therapeutic programming and service providers. The facilities must provide for effective and tailored programming, appropriate housing for those with medical, behavioral and mental health needs, and an opportunity for a more stable reentry into the community.

The new facilities must realize these values through innovative and high-quality design that will foster safety and wellbeing through normalized environments for all those who interact with the facilities. Such high-quality design practices must also provide for the new facilities to be built efficiently and cost-effectively to achieve the City's functional objectives and do so as expeditiously as possible in order to meet the City's goal of closing the Rikers Island Jail Complex as soon as possible.

This procurement is part of the Early Works packages to be completed prior to the construction of the facilities. Specifically, this Early Works project is for site preparation and other related activities in the Bronx.

The overarching goal for this procurement is to select a Design-Build (DB) Team to design and construct the Project in a manner that provides the best value to the City in support of its vision and mission. **Through best value selection, the City is looking for high-quality, innovative and transformative design to be completed on time and within budget. This procurement is not a low-bid procurement.** In addition to the City's goal for enduring design that supports justice reform for many decades to come, the City is seeking teams with the capability to work in dense, urban environments, to optimize energy-efficiency and sustainability, to provide robust minority- and woman-owned business enterprise participation, to deliver design excellence in the community-specific urban realm, and to reduce construction and operations-related community impacts. DDC seeks an effective partnering relationship with the successful DB Team(s) to accomplish this goal.

DDC intends to award fixed price DB agreements with incentives and an award fee program. DDC will state its requirements in a performance-based contract, thus allowing and expecting the DB Team(s) to determine how to satisfy and exceed Project requirements. The DB Team is expected to work collaboratively with the City to provide exceptional and innovative design that supports the City's vision for justice reform and to aggressively seek out solutions to accelerate the schedule while managing cost and promoting quality and innovation.

The City understands that integrated Design-Build and design-bid-build are fundamentally different project procurement and delivery systems. As part of DDC's shift into a collaborative Design-Build approach, DDC will implement Design-Build Institute of America best practices to become an owner of choice for DB Teams, such as:

- A two-phase, best value selection that prioritizes design, quality, past performance, and qualifications over price. This RFQ is Phase I. A subsequent RFP will be Phase II.
- Offering stipends to unsuccessful responsive and responsible Proposers in Phase II.
- Implementation of a formal Alternative Dispute Resolution (ADR) partnering program.
- Allowing the DB Team flexibility to choose means and methods to satisfy contract requirements.
- An integrated City-DB Team approach to meet or exceed Project goals.
- Rewarding key performance criteria throughout the Project.
- Mitigating the risk to the Design-Builder by providing for appropriate allowances, potential economic price adjustment provisions, and mitigating unknown subsurface conditions.

This Program presents the design and construction community with an opportunity to partner with the City to design and construct **innovative facilities** that will set the standard worldwide for **safe, secure, efficient, and humane** detention facilities. DB agreement(s) will be awarded to the best value Proposer(s) with Design-Build quality, design excellence, experience, past performance, and other non-cost factors valued more than lowest price.

## 1. INTRODUCTION TO THE BOROUGH-BASED JAILS PROGRAM

### 1.1 Executive Summary

New York City (the **City**) is at a transformational moment, rethinking and redoing the way in which its justice system operates to ensure it is as small, safe and fair as possible. Uniquely in the nation, the City has achieved record reductions in both crime and incarceration, even as it has lightened the touch of enforcement. Today, the City has the lowest rates of crime and incarceration of any big city in the nation, relying less on police and jails than it once did and more on neighborhood-based and preventive efforts. In the midst of this transformation, we are also closing the City's outdated jails, which for decades have been isolated on Rikers Island, which sits in the East River, and building instead facilities in four of the City's five boroughs, closer to communities, services and courts.

The City will build four modern, humane facilities in the Bronx, Brooklyn, Manhattan and Queens by 2027 that will house no more than 3,300 people in total—the lowest jail population since 1920. This Early Works Project is part of a once in many generations opportunity to build a smaller and more humane justice system that includes facilities grounded in dignity and respect, offering better connections to and space for families, attorneys, courts, medical and mental health care, education, therapeutic programming and service providers. The new facilities will realize these values through innovative and high-quality design that will foster safety and wellbeing through normalized environments for all those who interact with the facilities.

**The overarching goal for this procurement is to select a DB Team for, clearing of debris, environmental remediation, relocation of an existing sewer and preparation of the site for construction of a new facility in the Bronx and other related activities. This Project does not include design and construction of a new detention Facility.**

This Request for Qualifications (**RFQ**) is issued by the Department of Design and Construction (**DDC**) on behalf of the sponsor agencies, the Mayor's Office of Criminal Justice (**MOCJ**) and the Department of Correction (**DOC**), and seeks submissions from the most highly qualified Proposers.

All capitalized terms and abbreviations used, but not otherwise defined herein, have the meaning given to such terms in Appendix A (*Abbreviations and Definitions*).

### 1.2 Purpose

The purpose of this RFQ is to commence procuring DB services from a Design-Builder for the Bronx's dismantle Project, which is an Early Works package as part of this Borough-Based Jails Program (the **BBJ**) and as described in Appendix C (the **Project Description Appendix**). The Project Description Appendix provides a high-level overview for the Project, including (i) the Design-Builder's responsibilities, (ii) a preliminary project schedule and (iii) the Project Goals.

Sections 2 and 3, respectively, provide a description of the procurement process and general instructions applicable to the RFQ procurement. An explanation of the evaluation criteria, including evaluation criteria weights, is provided in Section 4. Proposals will be evaluated based on the best value. Detailed submission instructions for Proposers submitting statements of qualifications (**Statements of Qualifications** or **SOQs**) are set forth in Section 5.

### 1.3 RFQ Approach

This RFQ is the first step in a two-step process to award a DB Agreement for this Project as part of the BBJ program. The first step, encompassed in this RFQ, is to short-list up to three (3) Design-Build teams who will be invited to submit Proposals in response to the subsequently issued RFP.

During Phase II, DDC intends to award one DB Agreement. The overall procurement process, restrictions and limitations is described in further detail in Section 2 (*Procurement Process*).

#### 1.4 BBJ Program Goals

DDC's general goals and objectives for the BBJ are listed below (the **Program Goals**). Additional goals (**Project Goals**) are listed in the Project Description Appendix.

- (a) design and construct new Detention Facilities that are grounded in dignity and respect; offering better connections to, and space for, families, attorneys, courts, medical and mental health care, education, therapeutic programming and service providers. They must provide for effective and tailored programming, appropriate housing for those with medical, behavioral and mental health needs, and opportunity for a more stable reentry into the community;
- (b) design and construct in a manner that provides a safe and efficient work environment for those who work within the facilities;
- (c) design and construct in a manner that seamlessly integrates its operations, design and landscaping into the applicable existing neighborhood as a civic asset;
- (d) select a DB Team that can provide exceptional design in a collaborative manner;
- (e) select a DB Team to design and construct in a manner that provides the best value to the City and in a manner in full compliance with all applicable legal and agency requirements;
- (f) select a DB Team that will proactively seek out innovative solutions to expedite the project schedule while controlling cost and achieving a high degree of quality and safety;
- (g) optimize overall operations and maintenance efficiency;
- (h) prioritize environmental sustainability and energy efficiency, with the expectation that each Detention Facility will achieve, at minimum, LEED Gold rating.
- (i) establish robust diversity practices and meet M/WBE participation goals set forth in Section 8.1 (*M/WBE Policy*); and
- (j) minimize construction and operations-related impacts to neighboring properties and facilities and the community at large.

#### 1.5 Role of the DDC

For each Detention Facility, DDC, through its own forces or through the Consultant Support Team, intends to undertake the following:

- (a) overall project management for BBJ projects;
- (b) procurement and administration;
- (c) preparation of the RFQ and subsequent RFP, evaluation of SOQs and Proposals, determination of Short-lists and selection of the best value Proposal by a committee more fully described in Section 4.2 (*Selection Committee*);
- (d) identification of DDC's designated project manager as the point of contact for all communication during the design and construction phase;
- (e) quality oversight and audit of the Design-Builder's design and construction activities, including quality checks and verification sampling and testing;
- (f) providing reasonable assistance to the Design-Builder in securing agreements with utility companies, utility owners and other third parties, as necessary; and

- (g) M/WBE program oversight and compliance review.

## 1.6 Role of MOCJ, DOC and CHS

The Mayor's Office of Criminal Justice (**MOCJ**) serves as the primary advisor to the Mayor on public safety. MOCJ shapes and funds strategies to increase safety and fairness throughout the public safety system. The Department of Correction (**DOC**) provides for the care, custody and control of persons held in custody once accused of crimes, or who have been convicted and sentenced to one year or less. DOC will manage and operate the Borough-Based Jails. NYC Health + Hospitals/Correctional Health Services (**CHS**) provides medical and mental health care, substance use treatment, dental care, social work services, and reentry support services, to individuals in the City's custody. DOC will be the long-term operator of the Detention Facilities with CHS providing on-site health services.

DOC and MOCJ are the sponsor agencies of the BBJ – which is the basis of this RFQ. CHS is a key stakeholder in the BBJ.

## 1.7 Form Design-Build Agreement

### (a) Generally

The DB Agreement for the Project will be a fixed price, lump-sum and date-certain design and construction agreement prepared in accordance with design-build best practices and which may include incentives and award fees. The maximum budget for the Project is contained in the Project Description Appendix.

A draft form of DB Agreement will be provided with the subsequent RFP. A summary of key provisions that DDC anticipates including in the DB Agreement is attached in Appendix H (*Summary of Key DBA Provisions*).

### (b) Anticipated Payment Terms

The DB Agreement will provide for a system of progress payments to the Design-Builder based on a percentage of the Work completed. A description of the method of periodic payment will be provided in the subsequent RFP.

DDC anticipates including provisions in the DB Agreement that (i) provide for the payment of performance incentives and (ii) enable the Design-Builder to submit value engineering proposals to drive shared savings between the City and the Design-Builder. The City reserves the right to implement an award fee program during the post-award phase to further encourage superior performance.

### (c) Insurance and Bonding

Preliminary information regarding insurance that will be required, is set forth in Appendix E-4 (*Preliminary Insurance Information*). Details and requirements regarding insurance will be set forth in the RFP. DDC will require the Selected Proposer to provide evidence of insurance by certified copy (or certificates of such insurance) of complete policy or policies endorsed.

The DB Agreement will require the Design-Builder to post a performance bond and payment bond sized to 100% of the Contract Price for the benefit of DDC, as further described in Appendix H (*Summary of Key DBA Provisions*).

## 1.8 Project Information

A high-level project description is set forth in the Project Description Appendix.

For more information about the City's plan to close the Rikers Island Jail Complex and replace it with a smaller network of Detention Facilities, please visit: <https://rikers.cityofnewyork.us/>

To view copies of BBJ's City Environmental Quality Review documents, including the Final Scope of Work and the Final Environmental Impact Statement, please visit: <https://a002-ceqraccess.nyc.gov/ceqr/Details?data=MThET0MwMDFZ0&signature=e330cd9c78430a8d28b580b159a7183c6bd2b3d8>

A capital project scope development study (**CPSD**) was also performed. A copy of the final draft CPSD is available upon request by emailing DDC's Designated Representative, identified in Section 3.2 (*Rules of Contact*).

#### **1.9 Other BBJ DB Procurements**

Prior to, or simultaneous with this RFQ, DDC has procured, or is procuring through separate solicitations and procurements, design-build services for the Detention Facilities and other Early Works. Proposers or Persons participating in the procurements for Detention Facilities projects or other Early Works projects under the BBJ are not precluded from participating in this solicitation.

## 2. PROCUREMENT PROCESS

### 2.1 Purpose & Overview

- (a) DDC seeks the most highly qualified Proposers who are prepared in all respects to undertake the complete design and construction work for this Project. As described further below, SOQs will only be accepted from Proposers intending to provide all required services for the Project.
- (b) A high-level procurement schedule is included in Appendix F (*Draft Request for Proposals (Phase II) Information*) and the procurement and preliminary project schedule for is set out in the Project Description Appendix C.

### 2.2 RFQ (Phase I)

#### (a) **SOQ Submission**

Qualified Proposers that wish to be Short-listed under this RFQ, must submit an SOQ by the SOQ Due Date.

#### (b) **Ranking Process**

DDC will rank all SOQs received. After ranking, DDC will identify up to three of the most highly qualified Proposers.

#### (c) **Shortlist**

- (i) DDC intends that the Short-list for the Project will not exceed three qualified Proposers.
- (ii) DDC intends to issue the Short-list in accordance with the procurement schedule described in Section 2.1(b) (*Purpose & Overview*).

### 2.3 RFP (Phase II)

#### (a) **RFP Participation**

DDC will only issue an RFP to the Short-listed Proposers. As a result, in order to be invited to proceed to Phase II of the procurement and respond to a subsequent RFP, a Proposer must provide a timely response to this RFQ and be Short-listed by DDC.

#### (b) **Collaborative Dialogue Meetings**

Short-listed Proposers will have the opportunity to engage in collaborative dialogue meetings with the City to discuss comments and innovations to the RFP and will be required to submit fixed-price Proposals in response to the final RFP.

#### (c) **Selected Proposer**

DDC will evaluate the Proposals received and select one Selected Proposer to enter into the DB Agreement with the DB Team whose Proposal is deemed by the City to provide the best value to the City, considering, among other things, a Proposal that best optimizes design, quality, innovation, schedule, efficiency, price, and performance.

#### (d) **Additional RFP Information**

Additional information pertaining to the RFP (Phase II) process is described in Appendix F (*Draft Request for Proposals (Phase II) Information*). All references or information in this RFQ regarding the subsequent RFP are for informational purposes only and may be changed by DDC at any time in its discretion.



**2.4 RFP Proposal Stipend (Phase II Only)**

A stipend amount of not less than \$200,000.00 (Two Hundred Thousand dollars) will be available to responsive and responsible Proposers that do not enter into the DB Agreement solely at the RFP (Phase II) stage. Submission of a fully responsive Proposal and execution of a stipend agreement, which will be included with the RFP, will be prerequisites to be eligible for the stipend.

The stipend agreement will require, among other things, that the non-selected Proposer (i) transfer ownership of work product in accordance with best industry practice to DDC, (ii) will be paid the lesser of the Proposer’s actual qualified costs for producing the Proposal and the designated stipend amount, and (iii) agrees not to file a vendor protest in connection with this procurement for this Project.

**2.5 Procurement Schedule**

Pre-Submission Conference (via Webex) <sup>1</sup>	October 23, 2020 @ 10AM
RFQ (Phase I) Questions and Comments Due	November 25, 2020
Final Response to Proposer Questions	December 04, 2020
Register w/ PASSPort No Later Than	December 04, 2020
Statements of Qualification Due	December 15, 2020
Shortlisted Teams Announced	January 15, 2021

**<sup>1</sup>RSVP Link (Eventbrite):**

<https://www.eventbrite.com/e/nyc-borough-based-jails-pre-submission-conference-the-bronx-site-prep-registration-126276567613>

**WebEx Event Link & Access:**

<https://nycddc.webex.com/nycddc/j.php?MTID=m2b64f43300b42298a8d32a61bcb11ebc>

Meeting number (access code): 133 999 4133

Meeting password: KmJPwTJK573



**3. RFQ GENERAL INSTRUCTIONS**

**3.1 Conflicts of Interest**

**(a) Conflicts of Interest**

Proposers are required to disclose all known or potential Conflicts of Interest in their SOQs in accordance with Section 5.5(a)(xiii) (*Conflicts of Interest*). Conflicts of Interest with DDC or among the DB Teams will not be permitted by any member of a DB Team, unless expressly authorized by DDC.

**(b) Conflicts Between DB Teams**

No Major Participant or Key Personnel may be a member of, or participant in, more than one DB Team for the *same* procurement at any one time, either during any Phase I or Phase II. Additionally, subject to complying with Section 3.1(c) (*Communication Between DB Teams*) below, Subcontractors that are not Major Participants may be on one or more DB Teams on the same procurements.

**(c) Communication Between DB Teams**

After the Short-list is announced, neither a Proposer nor any of its DB Team members may communicate with another Proposer or members of another DB Team with regard to this procurement. Notwithstanding such general prohibition, where a Proposer obtains and provides to DDC a written certification from either a Major Participant or a Subcontractor that is not a Major Participant, as applicable, which provides, among other things, that such Major Participant or Subcontractor (as applicable) will not act as a conduit between Proposers or share any information as it pertains to either Proposer, then:

- (i) any such Major Participant that is permitted under Section 3.1(b) (*Conflicts Between DB Teams*) to be on one or more DB Teams may communicate with multiple Proposers, solely on such separate procurements; or
- (ii) a Proposer's DB Team member may communicate with a Subcontractor (that is not a Major Participant) that is on both its DB Team and another Proposer's DB Team.

**3.2 Rules of Contact**

The following rules of contact shall apply during Phase I and Phase II, which began upon public issuance of this RFQ and will be completed with the execution of the DB Agreement. The rules are designed to promote a fair, unbiased, legally defensible procurement process for the BBJ. Contact includes face-to-face, telephone, e-mail or any other form of communication.

**(a) Designated DDC Representative**

Potential Proposers are advised that communication in connection with this procurement, including but not limited to questions and responses to questions, can be made **only by e-mail** to the **DDC's Designated Representative**, which is:

Nicholas Mendoza  
[NYCBBJ@ddc.nyc.gov](mailto:NYCBBJ@ddc.nyc.gov)

**(b) Proposer Designated Representative**

For purposes of communications with DDC, the Proposer must notify DDC's Designated Representative of the Proposer's sole designated point of contact during Phase I and Phase II (the **Proposer's Designated Representative**).

(c) **Meetings Exception**

Communications between a Proposer or its DB Team and DDC's team or staff and the Consultant Support Team is allowed during any collaborative dialogue meeting, joint workshops and/or meetings organized by DDC during Phase I or Phase II.

(d) **No Contact or Lobbying Permitted**

Except as expressly provided in Section 3.1(b) (*Conflicts Between DB Teams*) and (c) (*Communications Between DB Teams*) above, neither a Proposer nor its DB Team members, or any of their authorized representatives, advisors or agents may contact (i) employees, authorized representatives, advisors of DDC or the Consultant Support Team, including staff members, members of any SOQ evaluation committee and any other person who will evaluate SOQs, regarding the BBJ or (ii) any public official regarding the BBJ.

Each Proposer, its DB Team members and their agents must refrain from any and all lobbying of any governmental official related to the BBJ during Phase I or Phase II.

(e) **Improper Communication**

Any contact by a Proposer or DB Team member determined by DDC in its discretion to be improper or in breach of this RFQ or the RFP may result in disqualification of the Proposer.

(f) **Non-Binding Effect Oral Communication**

Without prejudice to Section 7 (*DDC's Rights and Disclaimers*), any oral communication by DDC may not be relied upon for purposes of this RFQ, unless confirmed in writing by DDC's Designated Representative.

(g) **Website**

Information regarding the Phase I procurement will be posted on DDC's website:

**<http://designbuild.ddcanywhere.nyc>**

**Proposers are advised to monitor the website regularly. DDC is not obligated to notify potential Proposers of posted information, including Addenda, to this RFQ and the subsequent RFP.**

**3.3 The City's Consultant Support Team**

(a) Entities that have been retained by the City to provide assistance to the City and the selection committee in preparing this RFQ and the subsequent RFPs and in evaluating SOQs and Proposals, including providing financial, legal, contractual, and technical advice (the **Consultant Support Team**), are listed in Appendix G (*List of Consultant Support Team*). The Consultant Support Team may also provide project oversight, including design reviews, construction monitoring, and environmental compliance oversight.

(b) Except as otherwise provided in Appendix G (*List of Consultant Support Team*) members of the Consultant Support Team are not eligible to assist or participate as DB Team members with any Proposer for this procurement. SOQs and Proposals that include ineligible DB Team members may be deemed non-responsive.

(c) Additional members may be added to the Consultant Support Team for the BBJ. DDC will notify Proposers of additional members by issuing an Addendum to this RFQ.

**3.4 Proposer Questions**

(a) **Questions & Requests for Clarifications or Corrections**

DDC will consider questions submitted in writing by Proposers regarding this RFQ, including requests for clarification and requests to correct errors. All such requests must be submitted by e-mail to DDC's Designated Representative. Questions must include the individual requestor's name, the potential Proposer's name, address, telephone number and e-mail address.

(b) **Written Communication Only with Designated Representative**

Only written requests by e-mail to DDC's Designated Representative will be considered. No oral requests will be accepted or responded to. No requests for additional information or clarification to any other DDC office, consultant, employee, or stakeholder (including any utilities or other governmental agency relevant this procurement) will be considered.

(c) **Deadline**

Only questions received by 12:00 P.M. (Noon) Eastern Time (ET) on the deadline for Proposer questions or clarifications specified in Appendix C (*Project Description, Design-Builder Responsibilities and Project Status*) are required to be addressed by DDC.

(d) **Responses**

Responses to Proposer questions in connection with this RFQ will be disseminated by posting on DDC's website listed above and (except for certain Proposer specific questions or clarifications – which are not broadly applicable) will not be e-mailed or mailed directly to any Person. Proposers will be solely responsible for independently searching DDC's website for information pertaining to this RFQ. Responses will not indicate which Proposer raised particular questions. DDC may consolidate or rewrite questions, and may post multiple sets of questions and answers. Final responses will be posted on DDC's website (listed below) no later than the date indicated in the procurement in Appendix C (*Project Description, Design-Builder Responsibilities and Project Status*).

### 3.5 RFQ Addenda

(a) **Pre-SOQ Submission Addenda**

If necessary, DDC will issue Addenda to modify conditions or requirements of this RFQ. Addenda will be disseminated by posting on DDC's website. If Addenda are posted, DDC will attempt to send e-mail notification to potential Proposers that have registered and downloaded documents directly from DDC's website. DDC is not responsible if potential Proposers fail to receive e-mail notification of posted Addenda. Proposers are advised to visit DDC's website regularly to check for Addenda. DDC will seek to ensure that the final Addendum will be posted on DDC's website not later than seven Days prior to the SOQ Due Date. If an additional Addendum is required within seven Days of the SOQ Due Date, and such Addendum requires modifications to the SOQs, the SOQ Due Date may be revised such that there will be seven Days or greater from the final Addendum to the SOQ Due Date.

(b) **Post-SOQ Submission Addenda**

In the event that a material error is discovered in this RFQ during the SOQ evaluation process, DDC will issue an Addendum to this RFQ and provide all Proposers an opportunity to submit either a new or a revised SOQ based upon the corrected RFQ.

### **3.6 Notification of Firms on the Short-List**

Each Proposer will be notified officially in writing whether it has been selected for a Short-list. The Short-list will be posted on DDC's website after all Short-listed Proposers have been notified. Short-list notifications may be expected no later than the date specified in Appendix C (*Project Description, Design-Builder Responsibilities and Project Status*).

A Proposer's Short-listing does not represent a finding of responsibility with respect to the Proposer or any member of its DB Team. Between the time of Short-listing and award of the DB Agreement, ACCO may determine that a Short-listed Proposer is not responsible, and as such, should be removed from the Short-list and therefore, among other things, be ineligible to either (i) receive an RFP, (ii) submit a Proposal in response to an RFP or (iii) be awarded, or enter into, a DB Agreement.

### **3.7 Costs**

Proposers are solely responsible for all costs and expenses of any nature associated with responding to this RFQ, including preparing an SOQ, attending any briefing(s), workshop(s) or meeting(s), and/or providing supplemental information. Proposers will not be reimbursed for any costs associated with responding to this RFQ.

### **3.8 Changes in DB Team**

#### **(a) DB Team to Remain Intact & Scoring Carry-Forward**

This RFQ requires Proposers to identify Major Participants and Key Personnel. Major Participants and Key Personnel, identified in the SOQs submitted by Proposers are required to remain intact for the duration of Phase I and Phase II of the procurement and the resulting DB Agreement. The scoring of these Major Participants and Key Personnel positions in the evaluation of an SOQ will likewise carry forward in the scoring of such Major Participants and Key Personnel in a Short-listed Proposer's Proposal submitted in response to the applicable RFP (Phase II).

#### **(b) Phase II DB Team Changes**

A Short-listed Proposer may propose substitutions to DDC for its approval for substitute DB Team members; however, such changes will require written approval by DDC, in its sole discretion. Proposers should carefully consider the make-up of its DB Team, prior to the submittal of the SOQ, to reduce the likelihood of occurrence of any such changes during the Proposal period and throughout the term of the DB Agreement.

During Phase II, requests for changes to the Proposer's DB Team must be made in writing no later than the date listed in the procurement schedule. Requests by Short-listed Proposers for changes in any of the Major Participants and Key Personnel will be particularly scrutinized. Proposers with changes, whether such changes are approved or not, may have their scores increased or decreased due to such changes in Major Participants or Key Personnel.

#### **(c) Disqualification**

Proposers that make changes to the Major Participants or Key Personnel identified in an SOQ without DDC approval may be disqualified.

## 4. SOQ EVALUATION PROCESS

### 4.1 Evaluation Objectives

The objective of Phase I of this procurement is to create a Short-list of the most highly qualified Proposers with the general capability (quality of SOQ responses, financial and management), capacity and past performance necessary to successfully undertake and complete the Work for this Project. Only Proposers who demonstrate a capability to complete the Work in its entirety will be considered eligible to be included on a Short-list. The Design-Builder will have responsibility to perform all Work necessary to plan, design, construct, manage and control the Project and to complete the Work on, or ahead of, schedule and within the DB Agreement price.

### 4.2 Selection Committee

DDC has established a selection committee, which will be responsible for evaluating the SOQs, Short-listing Proposers and subsequently evaluating Proposals in Phase II and making a recommendation as to the Selected Proposer. Proposals may also be reviewed by DDC and other City agencies, including but not limited to MOCJ, and members of the City's Consultant Support Team.

### 4.3 Review and Evaluation of the SOQ

#### (a) Eligibility

In order to be eligible for evaluation, SOQs submitted in response to this RFQ must include information addressing each pass/fail evaluation factor identified in this RFQ.

#### (b) Evaluation Generally

Evaluation of the SOQs will be based on information submitted in the SOQs or otherwise available to DDC and will involve (i) first evaluating whether an SOQ has passed all the pass/fail evaluation factors in Section 4.4 (*Pass/Fail Evaluation Factors*) and (ii) subsequently evaluating an SOQ against the qualitative evaluation factors in Section 4.5 (*Qualitative Evaluation Factors*). The pass/fail evaluation factors in Section 4.4 (*Pass/Fail Evaluation Factors*) and the qualitative evaluation factors in Section 4.5 (*Qualitative Evaluation Factors*) are of importance to the City and in addition to providing a basis for evaluating the SOQs are provided to assist Proposers in organizing their DB Teams and preparing their SOQ to satisfy areas of importance to DDC and the City.

#### (c) Self-Contained SOQ

Proposers should note that the SOQ must be self-contained and therefore all the information necessary to allow the selection committee to make a complete and comprehensive evaluation must be contained within the Proposer's SOQ. Proposers should not assume that any SOQ reviewer will have previous knowledge of the DB Team, its Major Participants or its Key Personnel.

### 4.4 Pass/Fail SOQ Evaluation Factors

Only if a Proposer passes all the following pass/fail evaluations, will its SOQ be further evaluated using the qualitative evaluation factors detailed in Section 4.5 (*Qualitative Evaluation Factors*). If any item identified as pass/fail in this RFQ is scored as fail, the entire SOQ may be disqualified. Each SOQ's pass/fail rating will be based on the following criteria:

#### (a) Legal

Demonstration of the Proposer's legal capability to enter into a contractual

relationship with DDC and a declaration of willingness to do so;

(b) **Financial**

Demonstration of the Proposer’s and each Principal Participant’s capability to have a sufficient balance sheet to satisfy contingent liabilities under a market-standard DB Agreement and to provide required bonds, insurance and guarantees and to meet other financial requirements of undertaking and completing the Work;

(c) **Capacity**

Demonstration of workforce / resource capacity to timely and successfully complete the Work for the Project, considering current, committed and potential workload;

(d) **Compliance with RFQ & Satisfaction of Fundamental Requirements**

- (i) Proper identification of each Major Participant; and
- (ii) Proper submittal of all required submittals, forms and information in accordance with this RFQ, including satisfaction of the fundamental requirements in Section 5.5 (*Fundamental Qualifications (Tab 0 – Pass/Fail)*) and any Required Experience identified in Section 5 (*SOQ Submission Requirements*) of this RFQ;

(e) **Vendor Integrity**

Determination that the Principal Participants possess a satisfactory record of business integrity, it being understood that such a determination is not a determination of responsibility pursuant to PPB 2-08;

(f) **Legal Compliance Requirements**

A Proposer’s DB Team’s ability to comply with the provisions of articles 145, 147 and 148 of the New York State Education Law and past record of compliance with the New York State Labor Law. Material past non-compliance with any such requirements, may warrant the DDC’s disqualification of any Proposers.

**4.5 Qualitative Evaluation Factors**

The qualitative evaluation factors to be evaluated against each SOQ and their associated weightings are:

<b>RFQ (Phase I) Weighted Criteria</b>		
<b>Tab</b>	<b>Item Description</b>	<b>Weighting</b>
1	Project Past Performance/Experience	35 percent
2	DB Team Key Personnel Resumes	35 percent
3	Project Excellence and DB Management Approach	30 percent
	<b>Total</b>	<b>100 percent</b>

**4.6 Requests for Clarification by DDC**

(a) **Generally**

A Proposer must provide accurate and complete information to DDC. If information is not accurate and complete, the Proposer’s SOQ may be considered non-responsive. If the information provided requires clarification, DDC will notify the Proposer and request that the clarification be submitted within twenty-four hours or another time period deemed appropriate by DDC. Proposers will not be allowed to participate further in the procurement unless and until all required information is provided. Any insufficient statements or incomplete affidavits may be returned directly to the Proposer by DDC with notations of the insufficiencies or omissions



and may be accompanied by a request for clarifications and/or submittal of corrected documents. If a response is not provided within the time frame specified by DDC, the Proposer's SOQ may be declared non-responsive.

(b) **Responses to Requests for Clarifications**

Responses to DDC requests for clarification must be limited to answering the specific information requested by DDC and must be submitted to DDC's Designated Representative by e-mail no later than the deadline specified in DDC's request for clarification.

(c) **Interviews**

DDC does not anticipate conducting interviews during Phase I but reserves the right to do so. If DDC elects to conduct interviews, the Proposers will be notified by e-mail.

**4.7 Minor Non-Compliance**

- (a) DDC may waive technical irregularities in the form of a Proposer's SOQ that do not substantively alter the information provided; however, any other non-compliance may cause DDC to deem an SOQ and Proposer disqualified for purposes of the SOQ was submitted.
- (b) Additionally, a Proposer's compliance with the required SOQ format and organization in this RFQ may also be considered by DDC as part of any qualitative evaluation score rendered in accordance with this Section.

**4.8 Short-List Protest**

DDC's decision regarding which Proposers will be included on any Short-list will be final and will not be appealable, reviewable or reopened in any way, except as provided in Section 6 (*Protests*). Persons and entities participating in this RFQ will be deemed to have accepted this condition and other requirements of this RFQ.

**5. SOQ SUBMISSION REQUIREMENTS**

**5.1 Submittal Requirements**

(a) **Deadline**

All SOQs must be received at the location, set forth in Section 5.2 (*Submission Portal*), no later than 12:00 p.m. Eastern Time on the applicable SOQ Due Date. SOQs received after 12:00 pm Eastern Time on the applicable SOQ Due Date will not be considered.

(b) **Cover Page**

The front cover of the SOQs must be clearly marked with the Project name, Proposer name, and date of submittal as set forth below.

(c) **Contents of Proposal Submission**

Proposer submissions must consist of the following two files and must be labeled in accordance with Section 5.3.

- (i) **Statement of Qualifications (SOQ)**
- (ii) **Doing Business Data Form (DBDF)**

(d) **PASSport Requirement**

Interested Proposers must create an online account and submit an online disclosure application with the NYC Mayor's Office of Contract Services in the Procurement and Sourcing Solutions Portal (PASSPort). Those Proposers that have not submitted an online disclosure application with the NYC Mayor's Office of Contract Services, are required to do so at least seven Days prior to the applicable SOQ Due Date, by creating an account with the NYC Mayor's Office of Contract Services, PASSPort site. Additional information on how to submit an application or register for PASSPort are contained in following link: <https://www1.nyc.gov/site/mocs/systems/about-go-to-passport.page>. Questions about PASSPort registration should be directed to the NYC Mayor's Office of Contract Services.

Proposers that have not submitted an online disclosure application in PASSPort as a joint venture, but have done so as individual companies, may submit proof of such submission and are not required to submit the online disclosure application as a joint venture (or other type of Proposer legal entity) at this time. Joint ventures selected as Short-listed Proposers will be required to submit the online disclosure application as a joint venture.

**5.2 Submission Portal**

SOQs shall be submitted electronically at the link below:

Upload Link:

<https://ddcnyc.app.box.com/f/a922885efd8143029e067cd8a388aa39>

**DDC's Designated Representative**

Nicholas Mendoza

**NYCBBJ@ddc.nyc.gov**

Only electronic SOQs submitted at the link provided will be accepted. Oral, telephonic, e-mail or fax submissions will not be considered.

SOQs will not be publicly opened.

**5.3 Page Limit and Format**



(a) **Page Limit**

The page limit shall not exceed that shown in Appendix D (*Format and Organization for Statement of Qualifications*) (front and back covers, title page, table of contents, and tabs do not count as pages. Documents required as attachments in the RFQ shall not be counted against the Proposer's page limit.

(b) **Submission Format**

Proposers must submit one PDF containing the SOQ, and one PDF containing the proposers Doing Business Data Form (DBDF). The electronic files must 1) (i) be an Adobe Acrobat PDF file format, (ii) be readable and not corrupt and (iii) must be combined in one file and bookmarked, and 2) labeled as follows:

[Proposers Name] SOQ [MM.DD.YY of due date] for NYC BBJ Bronx Site Preparation  
[Proposers Name] DBDF [MM.DD.YY of due date] for NYC BBJ Bronx Site Preparation

(c) **Written Materials**

Provide 8 ½" x 11" format, using 10 point or larger font size, single space, with a cover sheet. Within the file, provide a title page identifying the Proposer's name, address, telephone number, e-mail and fax number if applicable. Provide consecutive page numbering throughout the file.

Provide a full table of contents at the beginning of the file that follows RFQ – Response Table of Contents provided in Appendix D (*Format and Organization for Statement of Qualifications*). Provide tabbed sections.

In the footer of each page within the document, provide the name and address of the Proposer, the volume number (if any), and date submitted.

#### 5.4 **Content of SOQ Generally**

(a) **Outline of SOQ**

An outline of the required format for the SOQ is provided in Appendix D (*Format and Organization for Statement of Qualifications*). Required forms for the SOQ are contained in Appendix E (*SOQ Forms*). Any material modification to the forms may result in the SOQ being declared non-responsive. Proposers must submit all required information specified in this RFQ. Any information provided in the SOQ that the Proposer considers proprietary must be clearly marked as such and easily separated from the submission. Unmarked information will be considered in the public domain.

(b) **Brief & Concise Information**

Proposers should provide brief, concise information that addresses the objectives and the requirements of the RFQ and the BBJ consistent with the evaluation factors described herein. Lengthy narratives containing extraneous information are discouraged.

#### 5.5 **Fundamental Qualifications (Tab 0 – Pass/Fail)**

The purpose of Tab 0 is to establish the fundamental qualifications of each Proposer, including team structure, level of commitment to the Program Goals and Project Goals, insurance and bonding capacity to meet the expected requirements, employment practices, and teaming agreements. Satisfaction of these fundamental qualifications are necessary to meet the pass/fail criteria described in Section 4.4 (*Pass/Fail SOQ Evaluation Factors*).

(a) **Submission Requirements:**

- (i) **Cover Letter.** The cover letter provided by the Proposer is required to contain the following information, but may also include additional information about the Proposer's DB Team:
- Full contact information for the person(s) authorized to contractually bind the Proposer;
  - E-mail addresses for up to three Proposer's points of contact (including the Proposer's Designated Representative). Correspondence related to the RFQ will be delivered to these e-mail addresses only.
- (ii) **Acknowledgment of receipt of Addenda.** List the Addenda number and date issued. Use the form provided in Appendix E-13. Attach and include with Appendix E-13 each signed addendum cover page. Original signature must be provided with the original SOQ and attach each Addenda cover page signed by the Proposer, using the form provided in Appendix E-13 (*Acknowledgement of Addenda Form*).
- (iii) **Equal Opportunity Employer Statement.** Provide the Proposer's Equal Opportunity Employer Statement or a summary of the corporate equal opportunity policy.
- (iv) **Construction Employment Report.** Complete the Employment Report Form and upload to the EEO Section of PASSPort by the SOQ Due Date. See Appendix E-1 (*Construction Employment Report*) for detailed instructions. Paper copies are not required and will not be accepted. A statement that this step has been completed must be included with the SOQ.
- (v) **Doing Business Data Form.** Complete the Doing Business Data Form and include one separate electronic file. Use the form provided in Appendix E-2 (*Doing Business Data Form*).
- (vi) **Iran Divestment Act Form.** Complete and sign the Iran Divestment Act Certification and include with the SOQ. Use the form provided in Appendix E-3 (*Iranian Divestment Act*).
- (vii) **Insurance Requirements.** Confirm that the DB Team carries or will carry coverage levels identified in Appendix E-4 (*Preliminary Insurance Information*).
- (viii) **Letter of Commitment from Surety.** Submit a letter of commitment from a surety, signed by an officer or agent authorized to bond, that identifies the Proposer's or each Principal Participant's available bonding capacity and limits and that states that the surety will bond the Proposer, as the successful awardee, taking into consideration the specific budget described in this RFQ. Surety requirements include:
- the surety company or companies providing the commitment letter must be (a) approved by the City; (b) authorized to do business in the State of New York; and (c) on the current list of certified surety bond companies provided by the Department of the Treasury of the United States; and
  - if the Proposer is or will be a joint venture, and only one party intends to provide the applicable surety indemnity

for the bond, provide a complete explanation with confirmation from the surety.

- (ix) **Legal Structure.** Describe the Proposer’s legal structure (e.g. joint venture, limited liability company, or other). If a joint venture, provide (1) a copy of the executed joint venture agreement (if available), or (2) a copy of the executed letter of intent to joint venture. If the Proposer’s organization has not yet been formed, information regarding the future legal structure and organization must be provided in a manner that will allow the DDC to determine whether the future organization will be legally capable of entering into a DB Agreement and to meet applicable requirements once it is formed. Prior to award, the Selected Proposer, in the event that it is a foreign entity, i.e., not formed in New York State, must be authorized to do business in New York State. There is no role-requirement for the leadership of the DB Team; for example, DB Teams may be designer-led.
- (x) **Teaming Agreement.** A teaming agreement is an arrangement between two or more Persons to perform on a specific contract. (See also, e.g., AIA Form C102-2015, DBIA Form 580). Provide a description of the Proposer’s teaming agreement or, at minimum, the Proposer’s letter of intent to team. Provide information that is similar to that of the AIA-AGC Design-Build Teaming Checklist or the DBIA Teaming Checklist. A Proposer may use the teaming agreements or other agreements that are specifically developed for its DB Team. Include the Major Participants, key trade partners, and other key Subcontractors or key trade Subcontractors in the teaming agreement.
- (xi) **Safety Questionnaire.** Provide a completed Safety Questionnaire. Use the form provided in Appendix E-5 (*Safety Questionnaire*). Any Experience Modification Rate greater than 1.1 may be considered non-responsive.
- (xii) **Financial Questionnaire.** Provide a completed Financial Questionnaire. Use the form provided in Appendix E-6 (*Financial Questionnaire*).
- (xiii) **Conflicts of Interest.** Provide a description of any known or potential Conflicts of Interest.

## 5.6 Project Past Performance/Experience (Tab 1)

### (a) Project Past Performance/Experience Evaluation Criteria

Each Proposer’s SOQ Tab 1 will be evaluated based on:

- (i) **Recent and Relevant Project Experience**  
**Relevant Projects** are defined as those projects included in the SOQ Tab 1 which satisfy one or more of the Required Experience or Desirable Experience criteria established in Section 5.6(b) below and which help demonstrate the Proposer’s and its DB Team member’s capability of delivering the Program Goals and the Project Goals.
- (ii) A Proposer’s and its Major Participant’s past performance in delivering successful Relevant Projects. Relevant Projects included in an SOQ that (1) are currently on track to be completed, or were successfully completed (within the past ten years), on-time and on-budget or (2) (a) received an award for Project Excellence (e.g., from DBIA, ENR, AGC, CMAA, or any other national organization) or (b) utilized best practices proliferated by major industry associations specializing in Design-Build education and outreach, will in each case be given additional consideration.

(iii) **DB Team Experience Working Together**

A Proposer's DB Team's recent and Relevant Project experience working together on successful projects. For projects where DB Team members worked together, DDC will evaluate how collaboratively the team worked together during design and construction.

(iv) **Required Experience vs. Desirable Experience Scoring**

For purposes of Tab 1, Required Experience is mandatory and may serve as a basis for deeming a Proposer disqualified. Desirable Experience is not mandatory, but is strongly-recommended to be included in a Proposer's SOQ. For purposes of evaluating the SOQs, Proposers are not required to include Relevant Projects satisfying all criteria for Desirable Experience in order to receive full credit in the SOQ evaluation for their past performance. However, Proposers can maximize their SOQ scores by submitting DB Teams that satisfy both the Required Experience and as much of the Desirable Experience as is deemed relevant to achieving the Program Goals and applicable Project Goals.

(b) **Project Past Performance/Experience - Submission Requirements / Evaluation Criteria**

Except as provided in Appendix A (*Abbreviations and Definitions*), Proposers must only describe a maximum of five (5) projects to demonstrate satisfactory Required Experience and Desirable Experience using the Project Profile Form found in Appendix E-7 (*Project Profile Form*). On each Project Profile Form provided for this Tab 1, highlight only Tab 1 Evaluation Criteria. Each Project Profile Form must provide a brief description of the DB Team's collaborative approach to Design-Build, including:

- interactions within the DB Team and with the client during design; and
- the role and interaction between the design team and the construction team during design and construction of the projects.

Images may be included in the Project Profile Form. However, no additional pages will be allotted for images.

(i) **Required Experience**

The DB Team must demonstrate recent, relevant experience in successfully completing at least one DB project.

(ii) **Desirable Experience**

Additional desired experience, which may include experience of members of a DB Team that will have a significant role in the performance of the Work, includes projects that had:

- Projects involving complex remediation and demolition activities.
- Projects involving demolition of structures and foundations in dense urban environments; or
- Projects demonstrating Proposer's ability to minimize construction impacts, particularly dust and noise, on surrounding community, including civic and municipal facilities (e.g., courts, police, correctional, buses, trains and subways).

(c) **Project Evaluation Forms.**

For every Project Profile Form (Appendix E-7 (*Project Profile Form*)) included in Tab 1, Proposers must include a Project Evaluation Form (Appendix E-8 (*Project Evaluation Form*)) following the Project Profile Form (Appendix E-7 (*Project Profile Form*)).

A maximum of one form per project will be considered. All Project Evaluation Forms should be completed and signed by the owner or owner's agent for each project.

In lieu of the Project Evaluation Form, Proposers may submit the last available evaluation they have from the owner, owner's agent or client for the project considered. Performance evaluations must highlight the role and impact a DB Team member provided on the project.

(d) **Prior Experience Matrix:** Provide a matrix (see Prior Experience Working Together Form – Appendix E-9 (*Prior Experience Working Together Form*)) showing recent and Relevant Projects the DB Team is working on currently or has successfully completed.

(e) **Project Relevancy Forms:** Provide a completed Project Relevancy Form found in Appendix E-10 (*Project Relevancy Form*), which should demonstrate that the project profiles included in the submission are relevant to the Program Goals and that each project profiled satisfies one or more of the Required Experience or Desirable Experience criteria and constitutes a Relevant Project.

**5.7 Design-Build Team Key Personnel Resumes (Tab 2)**

Each Proposer's SOQ Tab 2 will be evaluated based on:

(a) **Design-Build Team Key Personnel Evaluation Criteria:**

(i) **Team Introduction and Organization Chart**

Proposers will be evaluated based on the Proposer's DB Team structure, roles of the members of its DB Team, responsibilities and functional relationships, capability to perform assigned responsibilities and the Proposer's rationale for selecting the team structure relative to delivering the Program Goals and the Project Goals.

(ii) **Resumes**

Proposers will be evaluated based on the qualifications, experience and past performance of its proposed Key Personnel, with the evaluation considering, among other things, the individual's experience working on Relevant Projects in similar roles to those proposed in the SOQ.

(iii) **Resume Compliance Matrix**

Proposers exhibiting more competencies in the resume compliance matrix will be viewed more favorably, than those with less.

(b) **Submission Requirements:**

(i) **Team Introduction and Organization Chart**

Provide a narrative introducing Key Personnel and major team organizations, including key trade and design partners, and provide an organization chart showing the team structure and relationship. There is no role-requirement for the leadership of the team; for example, teams may be designer-led.

(ii) **Resumes**

Provide a resume for each of the positions on the following chart for the DB Team. Use the Resume Form provided in Appendix E-11 (*Resume Form*). Other than the Design-Build Project Executive, none of the individuals proposed as Key Personnel are required to be employees, officers, or principals of the Proposer or its Principal Participants (i.e., Key Personnel, other than the Design-Build Project Executive, may be Subcontractors).

(iii) **Additional Evaluation Consideration**

DBIA professional designation is desirable for all personnel and will receive additional consideration. Additional consideration will also be given (i) with respect to any design or architectural professional, to any person that has received an award for Project Excellence (e.g., from DBIA, ENR, AGC, CMAA, or any other national organization), (ii) in the case of the Design-Build Project Manager, if such person is certified Project Management Professional, or (iii) in the case of the Design-Build Construction Manager, if such person is Certified Construction Manager.

(iv) **Resume Compliance Matrix**

Provide completed Resume Compliance Matrix as found in Appendix E-12 (*Resume Compliance Matrix*) demonstrating that members of the DB Team meet as many of the competencies listed on the Resume Compliance Matrix as possible.

(c) **Description of Key Personnel Roles**

All Key Personnel listed below, except for the Design-Build Project Executive are expected to dedicate 100% of their time necessary to perform the Work and to satisfy each of the following requirements, as applicable.

Number	Title	Role	Education/ Certification	Preferred Experience
1	Design-Build Project Executive	This is the senior DB Team leader with the authority to contractually bind the company. This individual is the corporate sponsor responsible to commit all necessary resources and resolve potential conflicts. Identify percentage of time devoted to this project.	N/A	Fifteen (15) years of design or construction experience, including Design-Build projects.
2	Engineer-of-Record	This is the individual responsible for the development and implementation of the site civil and utility work.	New York State Licensed Engineer	Fifteen (15) years of experience in Relevant Projects. Experience in site civil and medium-large sewer/water work (preferably medium-large sewer design and infrastructure projects for NYCDDC and NYCDEP) in urban environments. Experience serving as Engineer-of-Record on



Number	Title	Role	Education/ Certification	Preferred Experience
				Design-Build projects is required and experience in coordination of interagency projects (NYCT/ NYCDEP/ MTA) is preferred.
3	Design-Build Project Manager	This is the primary liaison on the DB Team and will act as the first point of contact between the Design-Builder and the City.	Degree in Construction Management, Construction Science or Architecture / Engineering	Ten (10) years of experience in construction and construction management projects with Relevant Projects. Demonstrate satisfactory experience to manage and control the design and construction.
4	Design Integrator	This is the individual responsible for the development and implementation of the integrated design work plan to ensure alignment of design deliverables with construction needs.	Degree in Construction Management, Construction Science or Architecture/ Engineering OR 10 years of relevant experience (i.e., 5 years of experience in addition to the experience set forth under Preferred Experience).	Five (5) years of experience in design, construction and construction management projects with Relevant Projects. Must have experience on a large Design-Build project.
5	Design-Build Construction Project Manager	This role may be filled by the Design-Build Project Manager, if they meet the qualifications for both.	Degree in Construction Management, Construction Science or Architecture/ Engineering OR 15 years of relevant experience (i.e., 5 years of experience in addition to the experience set forth under Preferred Experience).	Ten (10) years of experience in construction and/or construction management projects with Relevant Projects. Experience in administration of City, Municipal or Federal projects. Ability to effectively manage, control, administer, and execute the integrated design and construction operations, safety, quality control program, and subcontracts.

Number	Title	Role	Education/ Certification	Preferred Experience
6	Safety Manager	Responsible for site wide health of safety of the workers as well as the surrounding community. Must report directly to the Project Executive and be given sufficient authority to oversee and implement health and safety	Safety Manager must be a licensed NYC DOB Site Safety Manager with a Bachelor's degree or higher.	At least fifteen (15) years of safety work experience in similar projects. Additional consideration may be given for a CSP or CIH certification
7	Environmental Manager	Responsible for adherence to all environmental requirements and all applicable environmental rules, permits, and regulations upon contract execution.	Bachelor's degree or higher	Ten (10) years of experience in environmental management of construction projects with Relevant Projects. Experience in administration of City, Municipal or Federal projects. Ability to effectively manage, control, administer, and execute the environmental management of the Relevant Project shown.

(d) **Key Licensing Requirements**

- (i) Section 7210 of the New York State Education Law requires that business entities providing professional engineering, geology, and land surveying services in the State of New York obtain a Certificate of Authorization to provide such services from the New York State Education Department. For more information, please visit <http://www.op.nysed.gov/corp/>. Proposers' Subcontractors providing professional engineering, geology, or land surveying services must provide a copy of their Certificate of Authorization prior to award. Other Subcontractors providing these services will be required to provide a copy of their Certificate of Authorization as part of the post-award subcontractor approval process.
- (ii) Prior to DB Agreement award, individuals providing professional services must be licensed and/or authorized to work in the State of New York, as required by law. Information about licensing/authorization can be found on the New York State Department of Education website at <http://www.op.nysed.gov/prof/>.
- (iii) All construction trades including, but not limited to electricians and plumbing and fire suppression trades, must be appropriately licensed. Information about licensing requirements for construction trades can be found on the website of the New York City Department of Buildings at <https://www1.nyc.gov/site/buildings/industry/licensing.page>.

**5.8 Project Excellence and DB Management Approach (Tab 3)**



Each Proposer's SOQ Tab 3 will be evaluated based on the following factors in connection with the BBJ, Program Goals and Project Goals:

(a) **Evaluation Criteria**

The City will evaluate how well the Proposer's SOQ Tab 3 satisfies the submittal requirements in Section 5.8(b) (*Submission Requirements*) below, including the following:

(i) **Project Excellence**

The Proposer's approach to achieving Project Excellence, as defined in Appendix B (*Project Excellence*).

The City will evaluate the Proposer's submitted plan to achieve Project Excellence for the Project in compliance with Appendix B. Submit narrative specifically identifying opportunities for the Proposer to achieve Project Excellence through the design and construction process.

(ii) **Design-Build Management Approach**

The City will evaluate the clarity and strength of the overall approach, the structure and strategy to execute the Work. Explain the Proposer's ability to comply with the co-location requirements in the Project Description Appendices, including its co-location strategy during design and how best to have the Design Integrator co-located with the Designers during performance of the Work. DDC will evaluate the Proposer's understanding of the design process and the role of the Engineer-of-Record (Individual) and Engineer-of-Record (Firm). The City will evaluate the Proposer's approach to how and when key trade partners will be brought on board and the Proposer's commitment to community engagement.

(iii) **M/WBE Approach**

The City will evaluate the Proposer's M/WBE proposed approach.

(iv) **Quality Assurance and Quality Control for Design and Construction**

1) The City will evaluate the DB Team's proven ability to develop comprehensive, integrated and complete incremental design packages in the context of Design-Build. Specific information on how the DB Team will implement the design quality assurance and quality control process, track design evolution and changes during design to meet the schedule and to facilitate City reviews will also be evaluated.

2) The City will also evaluate the DB Team's capabilities to ensure and control quality construction. The evaluation will include how the DB Team implements all matters relating to quality assurance and quality control of construction and how this control and commitment will lessen the administrative burden on the City.

(v) **Design and Construction Scheduling**

The City will evaluate the Proposer's integrated scheduling capabilities on the systems that will be utilized to implement the schedule. Proposers that

employ fast track Design-Build methodology and demonstrate high-quality design integration will be given additional consideration.

(b) **Submission Requirements**

(i) **Project Excellence**

Submit a detailed narrative describing specific opportunities and the Proposer's approach to achieving Project Excellence, as defined in Appendix B (*Project Excellence*).

(ii) **Design-Build Management Approach**

- 1) Provide an organization and technical approach narrative on the DB Team's approach to executing the Work in order to satisfy Program Goals and Project Goals within the anticipated schedule, site, and potential constraints.
- 2) Demonstrate an understanding of the risk management process associated with Design-Build projects.
- 3) Clearly and concisely describe the organizational and technical approach to project management and execution, describing how and when Subcontractors are contractually engaged and the prominent role(s) of the Engineer-of-Record (Individual), during the post-award design and construction phase. The Builder and key Subcontractors are encouraged to be actively involved in the design process.
- 4) Describe the DB Team's approach to having an effective management system to communicate, manage, control and track revisions to the design.
- 5) Describe the DB Team's overall approach to community engagement, including how the DB Team will keep the community apprised of the progress of the Work, how the DB Team will manage the construction activities (including demolition, where applicable) to mitigate construction impacts, and how the DB Team intends to manage, track, and respond to community feedback and inquiries.

(iii) **M/WBE Approach**

DDC has set a Draft Goal for M/WBE utilization, as discussed in further detail in Section 8.1(b) (*BBJ Specific M/WBE Program Components*). Accordingly, please explain the Proposer's commitment and ability to satisfy such M/WBE goal. Address the DB Team's proposed organizational structure of the supplier/Subcontractor diversity program for the Work.

(iv) **Quality Assurance and Quality Control for Design and Construction**

- 1) Describe how the DB Team will develop excellent high-quality documents and implement in-house processes that the DB Team will utilize. Provide information on how design documents will be compiled from multiple sources and who will coordinate this effort. Provide information on how the DB Team has historically achieved complete incremental design documents at pre-determined design milestones. Provide information on how the multiple design teams and personnel will collaborate to create an integrated design.

2) Describe the DB Team's quality control and quality assurance approach, corporate systems, and capabilities to maintain quality control of the design and construction. Provide information on how the Proposer will handle internal and external requests for information, shop drawings, submittal reviews, progress meetings, site visits, contract completion, closeout, record drawings, commissioning and completion documentation. Provide a brief description of the DB Team's quality control and quality assurance plan.

(v) **Design and Construction Scheduling**

Provide information on the scheduling methodology and software programs to be used for the Work. Describe the role of the Design Integrator and how the Proposer will integrate design, construction and City milestones into a comprehensive schedule. Describe any additional features the Proposer will provide such as cost loaded scheduling or, if offering building information modeling (BIM) for extraordinary reasons, how 4D Scheduling will be managed.

## 6. PROTESTS

### 6.1 General Overview

- (a) This Section 6 sets forth the exclusive protest remedies available to Proposers with respect to this RFQ. Each Proposer, by submitting its SOQ, recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies and agrees that the decision rendered on any protest shall be final and conclusive. These provisions are included in this RFQ expressly in consideration for such waiver and agreement by the Proposers. If a Proposer disregards, disputes or does not follow the exclusive protest remedies set forth in this Section 6, it shall indemnify, defend and hold the City, including its officials and employees, and the Consultant Support Team harmless from and against all liabilities, expenses, costs (including attorneys' fees and costs), fees and damages incurred or suffered as a result of such actions. The submission of an SOQ shall be deemed the Proposer's irrevocable and unconditional agreement with such indemnification obligation. By submitting an SOQ in response to this solicitation, the Proposer acknowledges that it has reviewed and acquainted itself with the protest procedures herein and agrees to be bound by such procedures as a condition of submitting an SOQ.
- (b) Subject to applicable New York State law, contents of SOQs, exclusive of proprietary information to the extent protected under applicable New York State law, will become public information upon execution of the DB Agreement or early termination of the procurement under this RFQ.
- (c) To be considered, a protest must be timely delivered and must include: (1) the name, street address, and e-mail address of the aggrieved party; (2) the name of the Detention Facility for which the protest is submitted; (3) a detailed description of the specific grounds for the protest and any supporting legal and/or factual documentation; and (4) a clear statement of the specific ruling or relief requested.
- (d) All protests must be in writing and delivered to the Agency Head at the address below by: (1) personal service, or (2) United States Postal Service Certified Mail or other delivery service that provides both proof of mailing and confirmation at delivery. The protest will be considered received on the date of actual delivery or five Days after mailing, whichever is sooner.

Agency Head  
Department of Design and Construction  
30-30 Thomson Avenue (Entrance on 30th Place)  
Long Island City, NY 11101

### 6.2 Time for Protest

- (a) Any Protest based on the form or content of this RFQ which is or should have been apparent prior to the date established for submittal of the SOQ, will not be considered if received by the Agency Head later than fourteen Days prior to the specified SOQ Due Date.
- (b) If DDC selects the Short-listed Proposers, a debriefing will be made available to any Proposer that submitted an SOQ in response to this RFQ. A qualifying Proposer, if it wishes to have a debriefing, must make a request in writing to DDC's Designated Representative within four business days of notification of the Short-list. DDC will make every effort to ensure that debriefings occur within seven business days of DDC's receipt of a Proposer's request. An unsuccessful Proposer may not file a protest until after the debriefing. The protest shall be filed no later than four business days after the debriefing. A copy of the protest must also be sent by regular mail to:

Agency Chief Contracting Officer  
Department of Design and Construction  
30-30 Thomson Avenue  
Long Island City, NY 11101

and

New York City Comptroller  
Office of Contract Administration  
1 Centre Street, Room 835  
New York, NY 10007

(c) **Procurement Not Obligated to Stay**

The City will not be obligated to stay the procurement process in any manner during the protest. By responding to this solicitation, Proposers acknowledge that a stay of procurement activities for the Project would cause substantial harm to the City and result in a delay of the closure of the Rikers Island Jail Complex.

(d) **Agency Head Determination**

- (i) The Agency Head may, in their sole discretion, invite written comment from the selected Proposer(s) (if any) or other interested party, and/or convene an informal conference with the protesting Proposer, the selected Proposer(s), and/or any other interested party to resolve the protest by mutual consent. No hearing shall be held.
- (ii) The Agency Head's determination shall set forth the reasons upon which it is based.
- (iii) The Agency Head's determination with respect to the merits of the protest shall be mailed (via regular mail or electronic mail) to the protesting vendor and the selected vendor (if any) within thirty (Days of receipt of the protest documents.
- (iv) Copies of all documents required by this Section 6 must be forwarded to the CCPO and the Comptroller as such documents become available to the agency.

(e) **Miscellaneous**

If the protest is denied, the protestor may be liable for the City's costs reasonably incurred in any action to defend against or resolve the protest, including legal and consultant fees and costs, and any unavoidable damages sustained by the City as a consequence of the protest. If the protest is granted, the City shall not be liable for payment of the protestor's costs, including, but not limited to, legal and consultant fees and costs.

In computing any period of time prescribed by this procedure, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period shall be included. Any document received after the close of regular business hours (5:00 p.m. Eastern Time) shall be deemed received the following business day.

(f) **Right of Appeal**

- (i) The determination of the Agency Head shall be final unless appealed to the New York City Office of Administrative Trials and Hearings (**OATH**). If a protestor wishes to contest the Agency Head determination, it may appeal to OATH, which shall hear and take final action in the matter in accordance

with its rules. The petition to OATH shall be filed by the vendor within fifteen Days of the date of the Agency Head determination. Supporting documentation, if any, shall be included. The protestor must, at the same time, send a copy of appeal to the Agency Head, the CCPO, and the Comptroller.

- (ii) The Agency shall forward a copy of all appeal-related documentation within fourteen Days of its receipt of the copy of the protestor's appeal to OATH. OATH shall review the determination and determine whether that decision is arbitrary and capricious and whether it is based on substantial evidence.

## 7. DDC'S RIGHTS AND DISCLAIMERS

### 7.1 DDC'S Rights

DDC may investigate the qualifications of any Proposer under consideration, including DB Team members, may require confirmation of information furnished by a Proposer, and may require additional evidence of qualifications to perform the Work described in this RFQ. Proposers must cooperate fully with DDC. Failure to cooperate fully may result in disqualification of the Proposer from this RFQ. DDC reserves the right, in its sole and absolute discretion, to:

- (a) Reject any or all SOQs;
- (b) Issue a new RFQ;
- (c) Cancel, modify or withdraw this RFQ;
- (d) Issue Addenda, supplements and modifications to this RFQ;
- (e) Modify the RFQ process (subject to the notice and extension requirements in this RFQ);
- (f) Terminate the procurement at any time and for any reason;
- (g) Appoint a selection committee and/or evaluation teams and selection official to review SOQs, and seek the assistance of outside experts, including the Consultant Support Team, in the SOQ evaluation;
- (h) Approve or disapprove the use of any member of a DB Team and/or substitutions and/or changes in SOQs;
- (i) Revise and modify, at any time before the SOQ Due Date, the factors it will consider in evaluating SOQs and to otherwise revise or expand its evaluation methodology. DDC will post any such revisions or modifications on DDC's website. DDC may extend the SOQ Due Date if such changes are deemed by DDC, in its sole discretion, to be material and substantive;
- (j) Hold meetings and exchange correspondence with the Proposers responding or intending to respond to this RFQ to seek an improved understanding and evaluation of the SOQs;
- (k) Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the SOQs;
- (l) Waive minor weaknesses, minor informalities and minor irregularities in SOQs;
- (m) Disqualify any Proposer whose conduct/and or SOQ fails to conform to the requirements of this RFQ;
- (n) Seek clarification of and revisions to SOQs;
- (o) Direct Proposers to submit modifications addressing subsequent RFQ amendments;
- (p) Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Proposer's SOQ and/or to determine a Proposer's compliance with the requirements of this RFQ;
- (q) Disqualify any Proposer that changes its SOQ without DDC written approval;
- (r) Remove or add a Short-listed Proposer or change the Selected Proposer;

- (s) Allow a competing Proposer to add or remove a DB Team member with or without the City notifying the other Proposers;
- (t) Modify or adjust any aspect of the procurement process, as the City determines is reasonably necessary, in its sole and absolute discretion; and/or
- (u) Refuse to consider an SOQ or reject an SOQ if such refusal or rejection is based upon, but not limited to, the following:
  - (i) Failure on the part of the Proposer or a Principal Participant, or Subcontractor deemed significant to Proposer's SOQ to pay, satisfactorily settle, or provide security for the payment of claims for labor, equipment, material, supplies, or services legally due on previous or ongoing contracts with DDC (or any other City agency);
  - (ii) Default on the part of the Proposer or a Principal Participant, or Subcontractor deemed significant to Proposer's SOQ, under previous contracts DDC (or any other City agency);
  - (iii) Unsatisfactory performance by the Proposer or a Principal Participant, or Subcontractor deemed significant to Proposer's SOQ under previous contracts with DDC (or any other City agency);
  - (iv) Issuance of a notice of debarment or suspension to the Proposer, a Principal Participant, or Subcontractor deemed significant to Proposer's SOQ;
  - (v) Submittal by the Proposer of more than one SOQ for the same work under the Proposer's own name or under a different name;
  - (vi) Existence of a conflict of interest or evidence of collusion between a prospective Proposer or any member of a DB Team and other Proposer(s) or member of their DB Team in the preparation of an SOQ or Proposal for any DDC construction project;
  - (vii) Uncompleted work or default on a contract in another jurisdiction for which the prospective Proposer or a Major Participant is responsible, which in the judgment of DDC might reasonably be expected to hinder or prevent the prompt completion of additional work if awarded;
  - (viii) Failure on the part of a Principal Participant to submit and certify the online application in PASSPort prior to the SOQ Due Date; and/or
  - (ix) Submittal by the Proposer of an SOQ that contains any false information or statements, or references to any documents that have been proven to be falsified.

This RFQ does not commit DDC to advance to Phase II or enter into a DB Agreement, nor does it obligate DDC to pay for any costs incurred in preparation and submission of the SOQs or in anticipation of a DB Agreement. By submitting an SOQ, a Proposer disclaims any right to be paid for such costs.

In no event shall DDC be bound by, or liable for, any obligations with respect to the Work until such time (if at all) as a DB Agreement, in form and substance satisfactory to DDC, has been executed and authorized by DDC and approved by all required parties and, then, only to the extent set forth therein.

## **7.2 DDC'S Disclaimers**

In issuing this RFQ and undertaking the procurement process contemplated hereby, DDC specifically disclaims the following:

- (a) Any obligation to Short-list any Proposer, issue a subsequent RFP, award or execute a DB Agreement pursuant to a subsequent RFP; and
- (b) Any obligation to reimburse a Proposer for any costs it incurs under this RFQ.



- (c) Nothing contained in this RFQ is intended to modify, limit or otherwise constrain the process or commit the City, DDC, or any other entity, to undertake any action with respect to this procurement, including selection of a Design-Builder or the Work.

In submitting an SOQ in response to this RFQ, the Proposer is specifically acknowledging these disclaimers.

## 8. PUBLIC POLICY AND LEGAL REQUIREMENTS

### 8.1 M/WBE Policy

#### (a) **BBJ M/WBE Applicable Laws**

In the context of public works projects, the City's existing M/WBE law under NYC Administrative Code Section 6-129 was developed for design-bid-build projects (the **City M/WBE Law**). Certain aspects of the City M/WBE Law were not written with the BBJ or the design-build delivery model in mind. To address this issue, the New York City Public Works Investment Act provides that the DDC requires compliance with the objectives and goals of the City M/WBE Law, as opposed to strict conformance with the City M/WBE Law. As a result, the DDC is afforded flexibility to choose the means, methods and processes to comply with City M/WBE objectives and goals. The following provides a high-level summary of those means, methods and processes which DDC is considering for BBJ:

#### (b) **BBJ Specific M/WBE Program Components**

DDC anticipates that some of the new aspects of the BBJ's M/WBE policy afforded by the flexibility described above, may be similar to, and borrow aspects from, Article 15-A of the Executive Law and Title 5, Chapter XIV, Part 142 of the State's Codes, Rules and Regulations (the **State M/WBE Law**) including:

- i. **State & City M/WBE Utilization** – the Design-Builder will be credited for M/WBEs certified with either the State's or the City's applicable certification agencies;
- ii. **Evaluating M/WBE** – the City anticipates evaluating the Proposer's M/WBE utilization plan submitted with its Proposal at the RFP phase, as well as the Proposer's past M/WBE compliance and a narrative on how the Proposer will partner with the City to achieve the M/WBE goals, as part of its best-value determination;
- iii. **Subcontractors at any Tier & Suppliers** – the Design-Builder will be credited for M/WBEs at any tier, as well as for suppliers, truckers, brokers and manufacturers. Joint venture entities will be credited for M/WBE participation based on the amount of Work performed by the M/WBE joint venture member, not by profit shared;
- iv. **Goal Setting** – DDC anticipates setting an initial M/WBE goal of 30% for design work and 30% for construction work for the Project (the **Draft Goal**);
- v. **Reporting** – similar to the State, DDC anticipates utilizing a digital civil rights reporting system to track M/WBE compliance;
- vi. **Compliance** – DDC expects to take M/WBE compliance for BBJ as a material and high-priority aspect of measuring success. For this reason, DDC anticipates having a dedicated independent validating M/WBE compliance and partnering with the Design-Builder to help ensure a successful M/WBE outcome; and
- vii. **Enforcement** – the DDC plans to utilize the City M/WBE Law for purposes of exercising legal remedies or assessing damages, including, where applicable, liquidated damages for a Design-Builder's failure to comply with the M/WBE obligations in the DB Agreement.

#### (c) **Collaborative / Partnering M/WBE Process**

- i. Given the significant period of time that will elapse from the time of issuance of this RFQ to the time of execution of the DB Agreement, we expect the Proposer to begin good faith efforts from RFQ issuance and throughout the RFP process to confirm the viability and feasibility of achieving the Draft Goal. DDC, and the City will work collaboratively with the Proposers during the RFP process to finalize the Draft Goal. Based on the Proposer's and the City's good faith efforts as well as refinements for the scope and design, the DDC will set a separate final goal for each of design work and construction work during the RFP period and prior to the Proposal due date. DDC anticipates requiring the Proposer to submit a utilization plan that is similar to those required by the State M/WBE Law, but that also includes narrative explanations on how such utilization plan will be successfully implemented.
- ii. Following the award to a Selected Proposer, DDC and the Design-Builder will work collaboratively to implement the Design-Builder's M/WBE utilization plan for the duration of the project. Specifically, during the period in which the Design-Builder is soliciting and entering into subcontracts, the Design-Builder will exercise good faith efforts to achieve the final goals based on the project's further-advanced design and release of construction documents. The DDC anticipates a bi-annual assessment between the parties during this period to assess the efficacy of the parties' collective efforts to achieve the final goals.
- iii. The Design-Builder will have the opportunity to request DDC to consider modifications or waivers to the final goals and the Design-Builder's related utilization plan, after the Design-Builder has demonstrated that it has exhausted all good faith efforts to achieve the final goals. In making any determination to approve a modification or waiver, the City anticipates evaluating the Design-Builder's "good faith efforts" as well as whether a M/WBE contractor or supplier serves a "commercially useful function", consistent with the State M/WBE Law's definition of those terms.
- iv. The Proposer and the Design-Builder will be required to take necessary and reasonable steps to ensure that certified M/WBEs are provided with a fair opportunity to participate in the Work.

## 8.2 Equal Employment Opportunity

The Work is subject to the requirements of City Executive Order No. 50 (1980) (**E.O. 50**), as revised, and the rules set forth at 66 RCNY §§ 10-01 et seq. No agreement will be awarded unless and until these requirements have been complied with in their entirety. The DB Team must agree that it:

- (a) Will not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation or citizenship status with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;
- (b) Will not discriminate unlawfully in the selection of subcontractors on the basis of the owners', partners' or shareholders' race, color, creed, national origin, sex, age, disability, marital status, sexual orientation, or citizenship status;
- (c) Will state in all solicitations or advertisements for employees placed by or on behalf of the Design-Builder that all qualified applicants will receive consideration for

employment without unlawful discrimination based on race, color, creed, national origin, sex, age, disability, marital status, sexual orientation or citizenship status, and that it is an equal employment opportunity employer;

- (d) Will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 and the rules and regulations promulgated thereunder;
- (e) Will furnish before the DB Agreement is awarded all information and reports including an Employment Report which are required by E.O. 50, the rules and regulations promulgated thereunder, and orders of the SBS, Division of Labor Services (**DLS**); and
- (f) Will permit DLS to have access to all relevant books, records, and accounts for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

### **8.3 Project Labor Agreement**

As required by the New York City Public Works Investment Act, projects within the BBJ will be subject to a Project Labor Agreement (**PLA**). A copy of the PLA will be included with the subsequent RFP.

### **8.4 Professional Licensing and Registration**

The City does not intend to contract for, pay for, or receive any design services which are in violation of any professional licensing laws. Professional services regulated by Articles 145, 147, and 148 of the New York State Education Law must be performed and stamped and sealed, where appropriate, by a professional licensed in accordance with such Articles. References in this RFQ, subsequent RFP, and contract documents to the Design-Builder's responsibilities or obligations to "perform" the design portions of the work are deemed to mean that the Design-Builder must "furnish" the design for the Work via designated firms and individuals holding appropriate licenses.

Prior to DB Agreement execution, all Persons participating in the DB Agreement, including those members of the Proposer's team responsible for leading the design and construction services for the Work, must obtain all certificates of authorization, licenses, registrations and any other requirements under applicable law, to conduct business in the State of New York and perform the Work required under the DB Agreement, including proposing and carrying out a contract consistent with the laws of the State of New York.

### **8.5 Authority to Issue RFQ**

This RFQ is issued pursuant to DDC's authority under the New York City Public Works Investment Act. As a result, any requirements expressly provided in the New York City Public Works Investment Act, are also expressly requirements in this Phase I and any subsequent Phase II.

## 9. COMPLIANCE WITH APPLICABLE LAWS

In connection with this RFQ and the DB Agreement, Proposers shall comply with all applicable laws in all aspects in connection with the procurement process of the BBJ and this procurement and the performance of the DB Agreement.

### 9.1 **Governing Law**

- (a) The subsequent RFP and the resulting DB Agreements, if any, unless otherwise stated or except as otherwise required to carry-out the requirements in this RFQ, the subsequent RFPs or any DB Agreement, will be subject to all applicable provisions of New York State Law, the New York City Administrative Code, New York City Charter and New York City Procurement Policy Board (PPB) Rules. A copy of the PPB Rules may be obtained by visiting <https://www1.nyc.gov/site/mocs/legal-forms/procurement-policy-board-ppb-rules.page>.
- (b) Proposers are advised that the City Chief Procurement Officer (**CCPO**) has approved the use of an innovative procurement method in accordance with Section 3-12 of the PPB Rules. DDC anticipates that several areas of the PPB Rules will be revised to accommodate DDC's procurement of Design-Build services. Specifically, DDC anticipates, without limitation, modification or alternative processes for the following areas currently addressed by the PPB Rules:
- Procurement methodology for DB services in accordance with the New York City Public Works Investment Act;
  - Performance security;
  - Contract changes and change order administration; and
  - Dispute resolution.

Such modifications and alternative processes will be set forth in the DB Agreement, which will be included with the subsequent RFP.

### 9.2 **Iran Divestment Act of 2012**

Pursuant to General Municipal Law Section 103-g, the City is prohibited from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Each Proposer is required to complete the attached Bidders Certification of Compliance with the Iran Divestment Act, certifying that it is not on a list of entities engaged in investments activities in Iran created by the Commissioner of the NYS Office of General Services. If a Proposer appears on that list, DDC will be able to award a DB Agreement to that Proposer only in situations where the Proposer is taking steps to cease its investments in Iran or where the Proposer is a necessary sole source. Please refer to Appendix E-3 (*Iranian Divestment Act*) for information on the Iran Divestment Act required for this solicitation and instructions on how to complete the required form and to <http://www.ogs.ny.gov/About/regs/ida.asp> for additional information concerning the list of entities.

**A Proposer will not be Short-listed if the Proposer fails to submit a signed and verified Bidders Certification. A certification form must be included with the SOQ.**

**10. COMPLAINTS**

The New York City Comptroller is charged with the audit of contracts in New York City. Any Proposer who believes that there has been unfairness, favoritism or impropriety in the proposal process should inform the Comptroller, Office of Contract Administration, 1 Centre Street, Room 835, New York, NY 10007; the telephone number is (212) 669-3000. In addition, the New York City Department of Investigation should be informed of such complaints at its Investigations Division, 80 Maiden Lane, New York, NY 10038; the telephone number is (212) 825-5959.

# APPENDIX A

## Abbreviations and Definitions



**Addenda** or **Addendum** means written supplemental additions, deletions, and modifications to the provisions of the RFQ or RFP (where applicable) issued by DDC, after the date of issuance.

**Agency Chief Contracting Officer** or **ACCO** means the position delegated authority by the Agency Head to organize and supervise the procurement activity of subordinate Agency staff in conjunction with the City Chief Procurement Officer.

**Agency Head** means the Commissioner of the New York City Department of Design and Construction.

**Borough-Based Jails Program** or **BBJ** means DDC's Design-Build Borough-Based Jail Program to demolish three existing jails in Manhattan, Brooklyn and Queens and to design and construct four new Detention Facilities in each of Manhattan, the Bronx, Brooklyn and Queens, as well as perform various Early Works necessary for the new Detention Facilities.

**Builder** means the Major Participant with overall responsibility for performance of the construction work necessary to deliver a Detention Facility.

**CHS** means the NYC Health + Hospitals/Correctional Health Services. CHS operates the City's correctional health care systems. CHS provides medical and mental health care, substance use treatment, dental care, social work services, and reentry support services, to patients from pre-arraignment through discharge. CHS is a key stakeholder in the BBJ.

**City** is defined in Section 1.1 (*Executive Summary*).

**City Chief Procurement Officer** or **CCPO** is defined in Section 9.1(b) (*Governing Law*).

**City M/WBE Law** is defined in Section 8.1(a) (*BBJ M/WBE Applicable Laws*).

**Comptroller** means the Comptroller of the City of New York, their successors, or duly authorized representatives.

**Conflicts of Interest** means that a Person or organization had or has relations with Persons: (1) engaged or is engaging in activities; or (2) performed or is performing services, for DDC or another entity concerning the BBJ or a related project, that afford such Person or organization or any DB Team with a competitive advantage or that might otherwise impair the Person or organization's objectivity, or that render such Person or organization unable, or potentially unable, to render impartial assistance, performance or advice to any DB Team.

**Consultant Support Team** is defined in Section 3.3 (*The City's Consultant Support Team*).

**Contract Documents** means the documents identified as such in the DB Agreement, including all performance security instruments, the Design-Builder Proposal, the final design documents and provisions required by law to be inserted in the DB Agreement whether actually inserted or not.

**Contract Price** is defined in Appendix H (*Summary of Key DBA Provisions*).

**CPSD** is defined in Section 1.8 (*Project Information*).

**Day** or **Days** means calendar days unless otherwise specifically noted to mean business days.

**DB Agreement** means the written agreement between DDC and the Design-Builder setting forth the obligations of the parties with respect to a Detention Facility, including, but not limited to, the performance of the Work, the furnishing of labor and materials, and the basis of payment, and

including all provisions required by law to be inserted in the DB Agreement whether actually inserted or not.

**DB Team** means Principal Participants, Major Participants, Subcontractors, and all other Persons making up the team and acting on behalf of, or at the direction of, a Proposer or the Design-Builder, as applicable necessary to perform the Work.

**DBIA** means the Design-Build Institute of America.

**DDC** means the Department of Design and Construction of the City of New York acting by and through the Agency Head thereof, or their duly authorized representative.

**DDC's Designated Representative** is defined in Section 3.2(a) (*Designated DDC Representative*).

**Design-Build** or **DB** means a project delivery methodology by which a single Design-Builder has responsibility for the design and construction of a project under a single design-build agreement.

**Design-Build Construction Project Manager** is the role and person to fill such role identified in number 5 of the table in Section 5.7(c) (*Description of Key Personnel Roles*).

**Design-Build Project Executive** is the role and person to fill such role identified in number 1 of the table in Section 5.7(c) (*Description of Key Personnel Roles*).

**Design-Build Project Manager** is the role and person to fill such role identified in number 3 of the table in Section 5.7(c) (*Description of Key Personnel Roles*).

**Design-Builder** means the Person selected pursuant to the RFP that enters into the DB Agreement with DDC to design and construct the Project.

**Design Integrator** is the role and person to fill such role identified in number 4 of the table in Section 5.7(c) (*Description of Key Personnel Roles*).

**Designers** means the Major Participants and Key Personnel with overall responsibility for design of the Project.

**DLS** is defined in Section 8.2(e) (*Equal Employment Opportunity*).

**DOC** means the Department of Correction of the City of New York. The DOC provides for the care, custody, and control of persons held in custody once accused of crimes or convicted and sentenced to one year or less of jail time. DOC will manage and operate the BBJ. DOC is a sponsor agency for purposes of this RFQ.

**Draft Goal** is defined in Section 8.1(b) (*BBJ Specific M/WBE Program Components*).

**E.O. 50** is defined in Section 8.2 (*Equal Employment Opportunity*).

**Early Works** means the infrastructure, demolition, design and construction work being performed by DDC or DDC contractors in advance of commencement of construction of any of the Detention Facilities, including the construction of the parking structure in connection with the Queens Detention Facility.

**Engineer-of-Record (Firm)** means the licensed in New York State firm that shall be responsible for signing and sealing design packages, and for certifying that the Work has been performed in accordance with the requirements of the Contract Documents and the Design-Builder's released for construction Documents.

**Engineer-of-Record (Individual)** means the licensed in New York State individual that is a member of the Engineer-of-Record (Firm) and that shall be responsible for signing and sealing design packages, and for certifying that the Work has been performed in accordance with the requirements of the Contract Documents and the Design-Builder's released for construction documents, as further described in number 2 of the table in Section 5.7(c) (*Description of Key Personnel Roles*).

**Environmental Manager** is the role and person to fill such role identified in number 7 of the table in Section 5.7(c) (*Description of Key Personnel Roles*).

**Equity Participant** means any Person holding (directly or indirectly) a 15% or greater interest in the Proposer.

**High-Rise** has the definition provided by Title 27, Subchapter 2 of the New York City Building Code.

**Key Personnel** means the individuals identified in the table in Section 5.7(c) (*Description of Key Personnel Roles*) and those additional individuals that may be designated as such in a subsequent RFP or by DDC's designated project manager at a later date.

**LEED Gold** means gold certification by the U.S. Green Building Council as part of the Leadership in Energy and Environmental Design certification program.

**M/WBE** means minority owned business enterprises and/or woman-owned business enterprises.

**Major Participant** means the Proposer, each Principal Participant, Engineer-of-Record (Firm), and the Builder.

**MOCJ** means the Mayor's Office of Criminal Justice. MOCJ serves as the primary advisor to the Mayor on public safety. MOCJ shapes and funds strategies to increase safety and fairness throughout the public safety system. MOCJ is a sponsor agency for purposes of this RFQ.

**New York City Public Works Investment Act** means the design-build authorizing legislation enacted as 2019 State Senate Bill S6293--A.

**OATH** is defined in Section 6.2(f) (*Right of Appeal*).

**Person** means any individual, firm, corporation, company, sole proprietorship, limited liability company (LLC), joint venture, voluntary association, partnership, trust, unincorporated organization, or other legal entity.

**Phase I** means the RFQ phase of the procurement process, which commences at issuance of this RFQ and terminates at issuance of the Short-list.

**Phase II** means the RFP phase of the procurement process, which commences at issuance of the Short-list and terminates at execution of the DB Agreement.

**PPB Rules** means the rules of the Procurement Policy Board as set forth in Title 9 of the Rules of the City of New York (RCNY), § 1-01 et seq.

**Principal Participant** means any of the following entities:

- A) The Proposer;
- B) If the Proposer is a partnership, joint venture, or limited liability company, any general partner or any member of the partnership, joint venture or LLC; and/or
- C) Any Equity Participant.

**Procurement Policy Board** or **PPB** means the board established pursuant to Charter § 311 whose function is to establish comprehensive and consistent procurement policies and rules which have broad application throughout the City.

**Program Goals** is defined in Section 1.4 (*BBJ Program Goals*).

**Project** means the demolition and improvements to be designed and demolished or constructed by the Design-Builder and all other Work product to be provided by the Design-Builder in accordance with the Contract Documents.

**Project Description Appendix** is defined in Section 1.2 (*Purpose*).

**Project Excellence** is defined in Appendix B (*Project Excellence*).

**Project Goals** is defined in Section 1.4 (*BBJ Program Goals*).

**Project Labor Agreement** or **PLA** means the project labor agreement entered into or designated by the City for the BBJ. The PLA will be included with the RFP.

**Proposal** means the proposal submitted by a Proposer in response to an RFP, including any revisions thereto. If the RFP requests submittal of best and final offers, the term Proposal means the best and final offer submitted by the Proposer, including any revisions thereto.

**Proposer** means the Person submitting an SOQ in response to this RFQ or a Proposal in response to an RFP.

**Proposer's Designated Representative** is defined in Section 3.2(b) (*Proposer Designated Representative*).

**Relevant Projects** is defined in Section 5.6(a)(i) (*Recent and Relevant Project Experience*).

**Request for Proposals** or **RFP** means a written solicitation, including all Addenda thereto, seeking Proposals (including quality and price) to be used to identify the Proposer offering the best value to DDC for the Project. The RFP will be issued only to Persons who are on the Short-list for the Project.

**Request for Qualifications** or **RFQ** means this written solicitation issued by DDC, including all Addenda thereto, issued by DDC seeking SOQs in order to identify and Short-listed Proposers to receive an RFP for the Project.

**Safety Manager** is the role and person to fill such role identified in number 6 of the table in Section 5.7(c) (*Description of Key Personnel Roles*).

**Selected Proposer** means the Proposer whose Proposal in response to the RFP is found to provide the best value to the City for the Project.

**Short-list** means each list of Proposers that the City determines are the most highly qualified Proposers for delivery of the Project, based on an evaluation of the SOQs submitted by such Proposers.

**Short-listed Proposers** means the Proposers that have been Short-listed.

**SOQ Due Date** is defined in Section 1.3 (*RFQ Approach*).

**State** means the State of New York.

**State M/WBE Law** is defined in Section 8.1(b) (*BBJ Specific M/WBE Program Components*).

**Statement of Qualifications** or **SOQ** is defined in Section 1.2 (*Purpose*).

**Subcontractor** means a subcontractor of the Design-Builder or other entity on a DB Team.

**Work** means all of the administrative, demolition, design, engineering, utility support services, procurement, legal, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, materials, equipment, maintenance, warranty, documentation, and other duties and services to be furnished and provided by the Design-Builder as required by the Contract Documents, including all efforts necessary or appropriate to achieve final acceptance of the Project and to fulfill the Design-Builder's warranties. In certain cases, the term is also used to mean the products of the Work.

**END**

# APPENDIX B

## PROJECT EXCELLENCE

## **PROJECT EXCELLENCE**

The City of New York is committed to achieving excellence in design and construction across its portfolio of public works by delivering quality infrastructure and public buildings that contribute to a thriving, equitable, sustainable and resilient city for all New Yorkers. As part of this commitment, the Department of Design and Construction's Project Excellence program builds on a strong tradition of innovation in architecture and engineering through strategies and practices that balance aesthetics, functionality, cost, constructability, and durability to bring form and meaning to public space.

Project Excellence encompasses all aspects of project delivery, from capital project planning through design, construction, commissioning, and close-out, to ensure on time and on budget delivery of exemplary civic projects. Integrated project delivery practices include enhanced project initiation and management tools, quality-based selection and best value procurements, performance evaluation and management, knowledge sharing, and continuing education. Together, these strategies ensure that all capital projects delivered to the City are inspiring, enduring, practical, constructible, and economical.

Achieving Project Excellence requires all team members to engage collaboratively in the capital project delivery process, prioritizing strategies that make responsible use of public funds and offer the best value for the City. DDC's project managers, technical reviewers, and support staff work to guide projects through complex and demanding project delivery processes in partnership with the most creative and experienced design and construction professionals. DDC and our partners share a commitment to Project Excellence in the public realm as characterized by the following overarching concepts:

**Project Excellence utilizes the power of design and construction to positively transform our public space, inspiring pride in the people and City of New York.** The design of public buildings and infrastructure must be guided by a civic consciousness and social responsibility to provide spaces that promote discourse, exemplify accessible government, and inspire pride in our communities. The design and construction process must reflect a collaborative effort that is inclusive of all stakeholders, including sponsor, partner, and regulatory agencies, and the community.

**Project Excellence shapes the city we envision for today and the future by creating enduring and inclusive public spaces.** With design and construction of public projects comes the responsibility of shaping the City for generations to come. Dignified, universally accessible, and community-oriented, public spaces must make all New Yorkers feel welcome and valued, comfortable and secure. By thoughtfully responding to surrounding context, including neighborhood character and natural systems, the design must create and reinforce a sense of place that is enhanced by strong connections to existing community resources and mobility networks. The design and construction process must engage relevant stakeholders and experts to consider cultural context and integrate artwork wherever possible in support of meaningful public spaces.



**Project Excellence protects the legacy of our public space by carefully considering practical solutions that address the needs of our City.** Public projects must be well suited for their intended use and adaptable to future needs. Our public buildings and infrastructure must meet the needs and aspirations of New York City’s public agencies as expressed in their individual missions, goals, standards, and requirements. The design must seek a creative balance between functional and programmatic requirements, operational and maintenance protocols, construction practices, and performance and innovation. Sustainable, resilient, durable, and easily maintained, the project must be guided by a holistic view of the capital asset over its expected lifespan. The design must consider solutions to long-term and emergent risks and opportunities, such as changing climate and public safety conditions, as well as new technologies and ways of living and working.

**Project Excellence strengthens the character of our public space by delivering constructible capital projects with safety and integrity.** Building New York City requires the ability to execute projects in a safe, effective, and timely manner while maintaining the integrity of the design throughout construction. The design of our public buildings and infrastructure must be represented by complete, comprehensive, and accurate contract documents that are clearly detailed and coordinated across disciplines, and that meet or exceed requirements of code, zoning, accessibility, and local laws. Specifications must be carefully coordinated with drawings and material schedules and be tailored to the requirements of each project. Materials and systems must be proven, readily available, and achievable with local construction practices to minimize lead times, eliminate cost overruns, and prevent construction delays.

**Project Excellence supports the value of our public space by employing an economical approach that leverages City resources to build lasting community assets.** Design and construction by and for the City requires conscientious attention to schedule, budget, and operational costs to ensure that public funds are well spent, and communities well served. The project must incorporate a life-cycle cost analysis approach and prioritize selection of long-lasting systems and assemblies that are achievable within the allocated budget. Systems must perform to the highest standards of human health, comfort and efficiency, meet or exceed energy requirements, and operate as designed. The project must be calibrated to reduce construction and operating costs and complexity, positively impact the health of the environment, and use natural resources wisely. Using City-wide and agency standards and best practices, innovative methodologies, and appropriate technologies, the design must add value and do more with less.

To support Project Excellence, DDC seeks architects, landscape architects, planners, designers, engineers, construction managers, contractors, and design-build teams who are dedicated, responsive, and collaborative, and who possess the management skills necessary to complete work on time and on budget. DDC’s partners must have a proven track record of delivering quality projects while resolving complex requirements and navigating unforeseen circumstances. Team-oriented and adept at balancing competing demands, these professionals must go beyond the creation of contract documents to serve as facilitator, mediator, and interpreter, building trust among the many stakeholders throughout the life of a project.

# APPENDIX C

Project Description, Design-Builder  
Responsibilities and Project Status

## PROJECT DESCRIPTION

The Bronx Site Preparation Project (Project) consists of this Early Works Package necessary to realize the City's goal of closing the City's outdated jails as part of the Borough-Based Jails Program. Specifically, the Project is for the design, construction, and infrastructure removals/temporary measures including:

- Construction of a temporary and permanent 42" combined sewer (sanitary and storm) line relocation;
- Site clearing and hazard material/ environmental remediation of an existing New York City Police Department (NYPD) Tow Pound;
- Excavation and removal of the abandoned Lincoln Hospital foundation and other building remains from the previous demolition; and
- Support, maintenance and relocation of existing utilities and other related activities as outlined below.

Once the Project is completed, the City will transfer control of the Project site to a different Design-Build contractor to design and construct a new detention facility in accordance with the Program goals (future work, not part of this scope).

The general Scope of Work for the Project includes:

- Clearing of the site, including removal of all trees, asphalt pavement parking lot, site lighting poles, storage boxes and any of the remaining NYPD trailers and associated temporary facilities not being salvaged by NYPD.
- Removal of the NYPD perimeter sheet metal security fence with barbed wire and entrance gates.
- Installation of (temporary) perimeter retaining systems in support of excavation of the site for foundation removal.
- Optional - Installation of a temporary rerouting of the existing thirty (30") inch combined sewer line with a new 42" gravity or suitable pumping station and force main (including any utilities needed for pump station operation). Contractor shall also include all costs associated with the operation and maintenance for any temporary routings.
- Site remediation which includes the removal and disposal of all below ground materials including but not limited to: potential hazardous materials, rock, relics of the previous Lincoln Hospital structure that may be buried on site and any abandoned utility service lines and infrastructure.
- Termination and removal of infrastructure servicing the NYPD temporary trailer type structures if not being salvaged by NYPD.
- Preparation of the site for the future construction of a new detention facility including the potential backfilling of the site as needed, and removal of support of excavation systems (as needed).

The objective of the project is to remove the existing foundation elements and debris remaining from the implosion of Lincoln Hospital in 1976 and decommission the existing thirty (30") inch combined sewer running thru the site to allow for the future construction of the new detention facility. The New York Department of Design and Construction (DDC) is investigating design solutions for the rerouting of the thirty (30") inch combined sewer with a 42" combined sewer in the street area. The Design-Builder for the Bronx Site Preparation project will be responsible for providing a solution which allows

the construction of the new detention facility to proceed as soon as possible based on the project schedule denoted below.

The existing tow pound will be vacated by the City. The NYPD may remove some facilities as salvage prior to the start of this project.

The existing Bronx Tow Pound Complex consists of fourteen (14) free standing temporary trailer type and other structures (ConEx storage boxes, gate houses, miscellaneous structures) situated within the site with a corrugated metal fence with barbed wire. The site has two automatic security rolling double-gates, one on 142<sup>nd</sup> Street and the other on 141<sup>st</sup> street. An asphalt pavement parking lot is located on top of the hill with two (2) access roads from either side at the gate locations. The site in general has a treed perimeter with shrubs on all sides and is approximately 11-24 feet above the adjoining streets.

All existing active and inactive utility lines on the site are to be investigated, and if no longer required shall be decommissioned as required by the Contractor in accordance with private utility company or NYC Department of Environmental Protection (DEP) requirements. Utility lines shall be removed by the Contractor to perform the site remediation necessary and prepare the site for future work (new facility).

It is vital that the work also be performed in a manner that minimizes impacts on the community, and the operation of surrounding residential and commercial properties, existing streets and infrastructure and public transportation. Compliance with noise and air quality requirements will be closely monitored.

At project completion, the project site must be clean, vacant and ready for future development. Providing faster access to the future development site is highly desirable.

All available details of the project site including geotechnical borings and Phase 1 Environmental reports will be provided to the short-listed teams as part of the Request for Proposals (RFP).

The work shall include the following:

1. Demolition Work:

- Demolition and removal of all temporary structures not removed or salvaged by NYPD.
- Removal of corrugated metal fence and gate system including post foundations.
- Removal of existing site lighting poles and wires.
- Removal of communication and security systems.
- Removal of gas, electrical (primary and secondary) telephone and other lines.
- Removal of utilities including water lines, existing sanitary and storm systems, and appurtenances.
- Environmental remediation of the site and removal of contaminated soil, equipment and other materials.
- Removal of the existing thirty (30") inch combined sewer traversing the proposed new development site (along prolonged Wales Ave) once either a temporary or permanent relocation is established.

2. Site Work:

- Site clearing and preparation of surfaces beyond the site, including removal of sidewalks, paving and landscaping.
- Removal of overburden soil and debris to street grade over the entire site
- Backfilling project site and removal of support of excavation once site remediation is complete.
- Storm Water Management (Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI)), including proper construction entrances/exits of site.
- Management of temporary groundwater pumping for the site.
- Maintenance and protection of traffic and pedestrians.

3. Utility Work:

- Design and construction solutions for the permanent rerouting of the thirty (30”) inch combined storm sewer including possible installation of temporary storm sewer relocation (optional) via gravity or pumping station and force main (optional).
- Survey and investigation (confirmation) of existing private and public utilities.
- Coordination with other ongoing construction projects.
- Coordination with public agencies and private utility companies.

4. Roadworks and Landscaping:

- Repair/restoration of road and sidewalks damaged during construction.
- Installing and maintaining traffic signage and striping as necessary.

5. USGBC

- All LEED documentation to be submitted by the Design-Builder in support of the overall site LEED certification (maximizing available LEED points for demolition and utility work).

**ANTICIPATED WORK TO BE PERFORMED BY OTHERS AND SUPPLIED TO CONTRACTOR**

- Geotechnical investigation to identify the location of the water table and bedrock depth; determine the soil characteristics and debris by DDC.
- Phase 1 Environmental Report on the presence of contamination by DDC.
- Removal of salvageable items from the site by NYPD.
- Topographic and Utility Survey by DDC.

**PROJECT SPECIFIC GOALS**

1. Safety in and around the project site.
2. Promote transparency in the design and construction process for the community and the public at-large.
3. Provide value to the City with innovative design and quality construction and materials.
4. Achieve dust and noise mitigation standards that exceed minimum regulatory thresholds.
5. Monitor and protect surrounding structures, including neighboring buildings and facilities.
6. Create and maintain, safe, accessible and well-lit pedestrian pathways throughout construction activities.

7. Complete the project within budget and on schedule.
8. Maximize M/WBE participation.
9. Minimize loss of street parking and traffic impacts during construction.
10. Minimize construction impacts to the surrounding community and facilities, particularly dust and noise, including impacts to civic and municipal facilities (e.g., courts, police, correctional, buses, trains, subways).
11. Provide a site suitable for new facility contractor to mobilize as soon as possible.

## SITE LOCATION

The Bronx Detention Facility is located at 745 East 141st Street (Block 2574, Lot 1) in the Mott Haven neighborhood of the Bronx Community District 1 (see *Figure C-1*). The site is within the block bounded by East 142nd Street, Southern Boulevard, Bruckner Boulevard, East 141st Street, and Concord Avenue (see *Figure C-2*). The site is within an M1-3 zoning district. The site is currently occupied by the NYPD Bronx Tow Pound. Tow Pound operations will be relocated by NYPD prior to the start of work. This site was formerly occupied by Lincoln Hospital. The roughly 145,635 sf site contains a small office structure, storage sheds, space for vehicle storage, and is surrounded by a fence and trees.



Figure C-1 BBJ-X Location





*Figure C-2 BBJ-X Map Location*

## **PROCUREMENT AND PROJECT SCHEDULE**

DDC anticipates that a Notice to Proceed (NTP) will be issued to the Design-Builder in or around November 2021, with the Work to be completed no later than December 2023.

It is important that the Project be timely completed to allow construction activities for the new facility to commence promptly under separate contract, which will be the subject of a future procurement.

## **PRELIMINARY BUDGET AND PROPOSAL STIPEND**

The proposal stipend amount for preparation of the proposal is \$200,000.00 (Two hundred thousand dollars). The preliminary project specific budget for this Early Works Package is between \$90,000,000 to \$100,000,000 (\$90 to \$100 million dollars) depending on the storm sewer options selected by the Design-Builder.



# APPENDIX D

Format and Organization for  
Statement of Qualifications

<b>RFQ (Phase I) Response Table of Contents</b>		
<b>Tab</b>	<b>Category</b>	<b>Page Limitation</b>
<b>0</b>	<b>FUNDAMENTAL QUALIFICATIONS</b>	<b>Up to 19 pages total</b>
	Cover Letter	2 pages
	Acknowledgment of Addenda Form (Appendix E-13)	1 page*
	Equal Opportunity Employer Statement	1 page
	Statement of Compliance with the filing of Construction Employment Report in PASSPort (Appendix E-1)	1 page
	Doing Business Data Form (Appendix E-2)**	2 pages
	Iran Divestment Act Form (Appendix E-3)	1 page
	Preliminary Insurance Information (Appendix E-4)	1 page
	Letter of Commitment from Surety	1 page
	Legal Structure	1 page***
	Teaming Agreement	1 page
	Safety Questionnaire (Appendix E-5)	1 page
	Financial Questionnaire (Appendix E-6)	5 pages
	Conflicts of Interest	1 page
<b>1</b>	<b>PROJECT PAST PERFORMANCE/EXPERIENCE</b>	<b>Up to 23 pages total</b>
	Project Profile Forms (each project limited to 3 pages) (Appendix E-7)	15 pages
	Project Evaluation Forms (Appendix E-8)	5 pages
	Prior Experience Working Together Form (Appendix E-9)	1 page
	Project Relevancy Form (Appendix E-10)	2 pages
<b>2</b>	<b>DESIGN-BUILD TEAM KEY PERSONNEL RESUMES</b>	<b>Up to 10 pages total</b>
	Team Introduction and Organization Chart	2 pages
	Design-Build Project Executive (Appendix E-11)	1 page
	Engineer-of-Record (Appendix E-11)	1 page
	Design-Build Project Manager (Appendix E-11)	1 page
	Design Integrator (Appendix E-11)	1 page
	Design-Build Construction Project Manager (Appendix E-11)	1 page
	Safety Manager (Appendix E-11)	1 page
	Environmental Manager (Appendix E-11)	1 page
	Resume Compliance Matrix (Appendix E-12)	1 page
<b>3</b>	<b>DESIGN PHILOSOPHY AND DB MANAGEMENT APPROACH</b>	<b>Up to 13 pages total</b>
	Project Excellence	4 pages
	Design-Build Management Approach	5 pages
	M/WBE Approach	2 pages
	Quality Assurance and Quality Control for Design and Construction	1 page
	Design and Construction Scheduling	1 page

\* page limit does not include attached copies of each Addenda cover page signed by the Proposer

\*\* Doing Business Data Form must be submitted as a separate file and must not be included in the body of the SOQ file.

\*\*\* page limit applies to the description of the Proposer's legal structure and does not include any copies of executed agreements or letters of intent, as required by the RFQ.

# APPENDIX E

## SOQ FORMS

# APPENDIX E-1

## Construction Employment Report

## How to complete the Construction Employment Report

The Construction Employment Report and Instructions on how to complete the report can be obtained at the following Link:

<https://www1.nyc.gov/site/sbs/businesses/contract-compliance.page>

### **Where to submit the Construction Employment Report:**

The Construction Employment Report must be uploaded to the EEO section of the proposer's PASSPort Vendor Profile.

Instructions on how to upload the Construction employment report can be found at the link below:

[https://www1.nyc.gov/assets/mocs/passport-downloads/pdf/resources-for-vendors/UserManual-Vendors\\_Account\\_Management.pdf](https://www1.nyc.gov/assets/mocs/passport-downloads/pdf/resources-for-vendors/UserManual-Vendors_Account_Management.pdf)

Paper copies are not required and will not be accepted. A statement that this step has been completed must be included with the SOQ submission. The form must be uploaded to PASSPort no later than the SOQ Due Date.

# APPENDIX E-2

## Doing Business Data Form

# Doing Business Data Form

To be completed by the City agency prior to distribution

Agency \_\_\_\_\_ Transaction ID \_\_\_\_\_

**Check One**

**Transaction Type (check one)**

Proposal  Award  Concession  Economic Development Agreement  Franchise  Grant  Pension Investment Contract  Contract

Any entity receiving, applying for or proposing on an award or agreement must complete a Doing Business Data Form (see Q&A sheet for more information). Please either type responses directly into this fillable form or print answers by hand in black ink, and be sure to fill out the certification box on the last page. **Submission of a complete and accurate form is required for a proposal to be considered responsive or for any entity to receive an award or enter into an agreement.**

This Data Form requires information to be provided on principal officers, owners and senior managers. The name, employer and title of each person identified on the Data Form will be included in a public database of people who do business with the City of New York, as will the organizations that own 10% or more of the entity. No other information reported on this form will be disclosed to the public. **This Data Form is not related to the City's PASSPort registration or VENDEX requirements.**

**Please return the completed Data Form to the City office that supplied it.** Please contact the Doing Business Accountability Project at [DoingBusiness@mocs.nyc.gov](mailto:DoingBusiness@mocs.nyc.gov) or 212-788-8104 with any questions regarding this Data Form. Thank you for your cooperation.

*If you are completing this form by hand, please print clearly.*

**Entity Information**

Entity EIN/TIN \_\_\_\_\_ Entity Name \_\_\_\_\_

**Filing Status**

**NEW:** Data Forms submitted now must include the listing of **organizations**, as well as individuals, with 10% or more ownership of the entity. Until such certification of ownership is submitted through a change, new or update form, a no change form will not be accepted.

**(Select One)**

- Entity has never completed a Doing Business Data Form. Fill out the entire form.
- Change from previous Data Form dated \_\_\_\_\_. Fill out only those sections that have changed, and indicate the name of the persons who no longer hold positions with the entity.
- No Change from previous Data Form dated \_\_\_\_\_. Skip to the bottom of the last page.

**Entity is a Non-Profit**  Yes  No

**Entity Type**  Corporation (any type)  Joint Venture  LLC  Partnership (any type)  Sole Proprietor  Other (specify) \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ E-mail \_\_\_\_\_

*Provide your e-mail address in order to receive notices regarding this form by e-mail.*

**Principal Officers**

Please fill in the required identification information for each officer listed below. If the entity has no such officer or its equivalent, please check "This position does not exist." If the entity is filing a Change Form and the person listed is replacing someone who was previously disclosed, please check "This person replaced..." and fill in the name of the person being replaced so his/her name can be removed from the *Doing Business Database*, and indicate the date that the change became effective.

**Chief Executive Officer (CEO) or equivalent officer**

*The highest ranking officer or manager, such as the President, Executive Director, Sole Proprietor or Chairperson of the Board.*

This position does not exist

First Name \_\_\_\_\_ MI \_\_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

This person replaced former CEO \_\_\_\_\_ on date \_\_\_\_\_

**Chief Financial Officer (CFO) or equivalent officer**

*The highest ranking financial officer, such as the Treasurer, Comptroller, Financial Director or VP for Finance.*

This position does not exist

First Name \_\_\_\_\_ MI \_\_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

This person replaced former CFO \_\_\_\_\_ on date \_\_\_\_\_

**Chief Operating Officer (COO) or equivalent officer**

*The highest ranking operational officer, such as the Chief Planning Officer, Director of Operations or VP for Operations.*

This position does not exist

First Name \_\_\_\_\_ MI \_\_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

This person replaced former COO \_\_\_\_\_ on date \_\_\_\_\_



**Principal Owners**

Please fill in the required identification information for all individuals or organizations that, through stock shares, partnership agreements or other means, **own or control 10% or more of the entity**. If no individual or organization owners exist, please check the appropriate box to indicate why and skip to the **Senior Managers** section. If the entity is owned by other companies that control 10% or more of the entity, those companies must be listed. If an owner was identified on the previous page, fill in his/her name and write "See above." If the entity is filing a Change Form, list any individuals or organizations that are no longer owners at the bottom of this section. If more space is needed, attach additional pages labeled "Additional Owners."

**There are no owners listed because (select one):**

- The entity is not-for-profit       The entity is an individual       No individual or organization owns 10% or more of the entity

Other (explain) \_\_\_\_\_

**Individual Owners (who own or control 10% or more of the entity)**

First Name \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

First Name \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

**Organization Owners (that own or control 10% or more of the entity)**

Organization Name \_\_\_\_\_

Organization Name \_\_\_\_\_

Organization Name \_\_\_\_\_

**Remove the following previously-reported Principal Owners**

Name \_\_\_\_\_ Removal Date \_\_\_\_\_

Name \_\_\_\_\_ Removal Date \_\_\_\_\_

Name \_\_\_\_\_ Removal Date \_\_\_\_\_

**Senior Managers**

Please fill in the required identification information for all senior managers who oversee any of the entity's relevant transactions with the City (e.g., contract managers if this form is for a contract award/proposal, grant managers if for a grant, etc.). Senior managers include anyone who, either by title or duties, has substantial discretion and high-level oversight regarding the solicitation, letting or administration of any transaction with the City. At least one senior manager must be listed, or the Data Form will be considered incomplete. If a senior manager has been identified on a previous page, fill in his/her name and write "See above." If the entity is filing a Change Form, list individuals who are no longer senior managers at the bottom of this section. If more space is needed, attach additional pages labeled "Additional Senior Managers."

**Senior Managers**

First Name \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

First Name \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

First Name \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

**Remove the following previously-reported Senior Managers**

Name \_\_\_\_\_ removal date \_\_\_\_\_

Name \_\_\_\_\_ removal date \_\_\_\_\_

**Certification**

I certify that the information submitted on these two pages and \_\_\_\_\_ additional pages is accurate and complete. I understand that willful or fraudulent submission of a materially false statement may result in the entity being found non-responsible and therefore denied future City awards.

Name \_\_\_\_\_ Title \_\_\_\_\_

Entity Name \_\_\_\_\_ Work Phone # \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Please return this form to the City agency that supplied it to you, not to the Doing Business Accountability Project.

Standard Form

# APPENDIX E-3

## IRAN DIVESTMENT ACT

IRAN DIVESTMENT ACT COMPLIANCE RIDER

**FOR NEW YORK CITY CONTRACTORS**

The Iran Divestment Act of 2012, effective as of April 12, 2012, is codified at State Finance Law (“SFL”) §165-a and General Municipal Law (“GML”) §103-g. The Iran Divestment Act, with certain exceptions, prohibits municipalities, including the City, from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Pursuant to the terms set forth in SFL §165-a and GML §103-g, a person engages in investment activities in the energy sector of Iran if:

- (a) The person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
- (b) The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to paragraph (b) of subdivision three of Section 165-a of the State Finance Law and maintained by the Commissioner of the Office of General Services.

A bid or proposal shall not be considered for award nor shall any award be made where the bidder or proposer fails to submit a signed and verified bidder’s certification.

Each bidder or proposer must certify that it is not on the list of entities engaged in investment activities in Iran created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. In any case where the bidder or proposer cannot certify that they are not on such list, the bidder or proposer shall so state and shall furnish with the bid or proposal a signed statement which sets forth in detail the reasons why such statement cannot be made. The City of New York may award a bid to a bidder who cannot make the certification on a case by case basis if:

- (1) The investment activities in Iran were made before the effective date of this section (i.e., April 12, 2012), the investment activities in Iran have not been expanded or renewed after the effective date of this section and the person has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran: or
- (2) The City makes a determination that the goods or services are necessary for the City to perform its functions and that, absent such an exemption, the City would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

**BIDDER'S CERTIFICATION OF COMPLIANCE WITH  
IRAN DIVESTMENT ACT**

Pursuant to General Municipal Law Section 103-g, which generally prohibits the City from entering into contracts with persons engaged in investment activities in the energy sector of Iran, the bidder/proposer submits the following certification:

[Please Check One]

**BIDDER'S CERTIFICATION**

- By submission of this bid or proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer 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/proposer is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law.
  
- I am unable to certify that my name and the name of the bidder/proposer does not appear on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-A of the State Finance Law. I have attached a signed statement setting forth in detail why I cannot so certify.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE

Sworn \_\_\_\_\_ to \_\_\_\_\_ before \_\_\_\_\_ me \_\_\_\_\_ this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public Date

# APPENDIX E-4

## Preliminary Insurance Information

The policies and minimum limits provided below are for information purposes only. Section 5.5 (Fundamental Qualifications) with respect to the SOQ submission requires an acknowledgment that the DB Team carries or will carry coverage levels identified below. Further details regarding insurance requirements for the Project will be specified in the RFP (Phase II). The Selected Proposer will be required to provide evidence of insurance by providing certificates of insurance and may require complete copies of policies and/or policy endorsements.

Type of Insurance	Minimum Limits Required Per Claim/Occurrence	Minimum Limits Required Aggregate Policy Limits
1. Worker's Compensation	Statutory Limits	Statutory Limits
2. Employer's Liability (Bodily Injury by Accident)	Statutory Limits	Statutory Limits
3. Commercial General Liability	\$3,000,000	\$6,000,000
a. Bodily Injury/Property Damage per occurrence limit	\$3,000,000	n/a
b. Bodily Injury/Property Damage aggregate limit	n/a	\$2,000,000 (Annual)
c. Products/Completed Operation aggregate limit	n/a	\$2,000,000 (Annual)
d. Personal and Advertising Injury aggregate limit	n/a	\$2,000,000 (Annual)
4. Commercial Automobile Liability	\$1,000,000	\$
5. Professional Liability Insurance	\$4,000,000.00	\$4,000,000.00
6. Contractor's Pollution Liability including coverage for microbial matter (if applicable)	TBD	TBD
7. Umbrella Excess Liability Insurance	\$10,000,000	\$10,000,000
8. Builders' Risk	TBD	TBD
9. Railroad Protective Liability	TBD	TBD

Notes:

- Commercial General Liability: If the Work requires a permit from the Department of Buildings pursuant to 1 RCNY Section 101-08, the Design-Builder will be required provide Commercial General Liability Insurance with limits of at least those required by 1 RCNY section 101-08 or the limits required by the Contract, whichever is greater.
- Subject to DDC's approval, the Design-Builder may satisfy its obligation to provide general liability and automobile liability coverage through primary policies or a combination of primary and umbrella excess policies, so long as all policies provide the scope of coverage required by the DB Agreement.
- Builders' Risk limits and requirements will apply whenever the Project includes structures. If applicable, limits and requirements will be set forth in the RFP.
- Contractor's Pollution Liability limits and requirements will apply if there are hazardous materials at the site. If applicable, limits and requirements will be set forth in the RFP.
- Railroad Protective Liability limits and requirements will apply if railroad facilities exist within or adjacent to the Project site. If applicable, limits and requirements will be set forth in the RFP.
- Other types and amounts of insurance may be required. If applicable, limits and requirements will be set forth in the RFP.
- Except as set forth in the subsequent RFP, all policies will be required to name the City of New York, including its officials and employees, as additional insured. The Selected Proposer may be required to name additional parties as additional insured and may be required to name the City of New York as loss payee. Details and requirements will be set forth in the RFP for the Project.

# APPENDIX E-5

## Safety Questionnaire



**TAB 0 – SAFETY QUESTIONNAIRE**

**SAFETY QUESTIONNAIRE**

Attachments and explanations provided on a separate page, as requested in the questions below shall not be counted against Proposer's page count limit.

- 1 Has Federal OSHA or OSH cited and assessed penalties against the entity or any of its affiliates for any "serious," "willful" or "repeat" violations of its safety or health regulations in the past five (5) years?

Yes  No

If "yes," on separate page describe the citations, state the case number, the party against whom the citation was made, date of citation, nature of the violation, project on which the citation was issued, owner of project, and the amount of penalty paid, if any.

- 2 Does the entity have an injury prevention program instituted pursuant to Occupational Safety and Health requirements? (A "No" answer is grounds for disqualification. There is no other or separate scoring of this answer.)

Yes  No

- 3 At what frequency does the entity require documented safety meetings to be held for construction employees and field supervisors during the course of a project?

Weekly  Monthly  Other

If other, please describe:

- 4 List the entity's Experience Modification Rate (EMR) (New York workers' compensation insurance) for each of the past three (3) premium years:

(NOTE: An Experience Modification Rate is issued to your firm annually by your workers' compensation insurance carrier.)

2019:

2018:

2017:

If your EMR for any of these three (3) years is 1.00 or higher you must attach a one (1) page explanation.

- 5 List the entity's Total Recordable Case Incident Rate (TCIR):

2019:

2018:

2017:

- 6 List the entity's Days Away, Restricted or Transfer Case Incident Rate (DART):

2019:

2018:

2017:

# APPENDIX E-6

## Financial Questionnaire

**FINANCIAL QUESTIONNAIRE**

Attachments and explanations provided on a separate page, as requested in the questions below, shall not be counted against Proposer’s page count limit.

Provide the following information about the Proposer:

1. Name of Proposer:
2. Date of formation:
3. State of formation:
4. Number of employees?
5. If a corporation, provide the following:

Provide information for each officer of the corporation.

<b>Position</b>	<b>Name</b>	<b>Years with Co.</b>	<b>% Ownership</b>
CEO			
President			
Secretary			
Treasurer/CFO			
Other (Title)			
Other (Title)			
Other (Title)			
Other (Title)			

6. If an individual doing business as a sole proprietorship, please complete the following:

<b>Owner</b>	<b>Years as</b>

7. If a joint venture, partnership, limited liability company (“LLC”), or other association, provide the following for each member of the joint venture, each partner, each member or manager of the LLC, or other association member. (Attach additional pages if necessary)

Name of Individual Or Entity	Principal Contact	Position	Years with Joint Ven- ture/ Part- nership/ LLC/Other Associa-	% Owner- ship In- terest

8. Has there been any change in ownership during the last three years?

(NOTE: A corporation whose shares are publicly traded is not required to answer this question with regard to public trades.)

If “yes”, please explain on a separate page.

Yes     No

9. Is the entity a subsidiary, parent, holding company or affiliate of another firm?

(NOTE: Include information about other firms if one firm owns 50 percent or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.)

Yes     No

If “yes”, explain on a separate page.

State gross revenue for each of the last three years:

2019: \$

2018: \$

2017: \$

10. Is the entity or any of its affiliates currently the debtor in a bankruptcy case?

Yes     No

If "yes," indicate the case number, bankruptcy court, and the date on which the petition was filed.

_____	_____	_____
Case Number	Bankruptcy Court	Date Filed

11. Was the entity or any of its affiliates in bankruptcy at any time during the last five years? (This question refers only to a bankruptcy action that was not described in answer to question A-2, above).

Yes     No

If "yes," indicate the case number, bankruptcy court, and the date on which the petition was filed.

_____	_____	_____
Case Number	Bankruptcy Court	Date Filed

12. In the last five years has any insurance carrier, for any form of insurance, refused to renew an insurance policy due to non-payment or contractor losses?

Yes     No

If "yes," on a separate page provide the name of the insured, name the insurance carrier, the form of insurance, and the year of the refusal.

13. Please provide the following information from most recent financial statement:

Current Assets:	\$
Current Liabilities:	\$
Total Net Worth:	\$
Current Ratio (Assets/Liabilities):	\$
Working Capital (Current Assets - Current Liabilities):	\$

Debt to Equity Ratio: \_\_\_\_\_

**History of Performance (Past Performance)**

14. Has the entity or any of its affiliates ever been terminated for default on a construction contract?

Yes     No

If “yes,” explain on a separate page.

15. In the last five years has the entity or any of its affiliates, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public works project for any reason?

Yes     No

If “yes,” explain on a separate page. State the name of the organization debarred, the year of the event, the owner of the project, and the basis for the action.

**(NOTE:** The following two questions (Questions 16 and 17) refer only to disputes between the entity and project owners. Do not include information about disputes with suppliers, other contractors, or subcontractors. Do not include information about “pass-through” disputes in which the actual dispute is between a subcontractor and a project owner)

16. In the past five years has any claim in excess of \$50,000 been filed or made in court or arbitration against the entity or any of its affiliates concerning their work on a construction project?

Yes     No

If “yes,” on a separate page identify the claim(s) by providing the project name, date of the claim, name of the claimant, the name of the entity the claim was filed against, a brief description of the nature of the claim, the court and case number, and a brief description of the status of the claim (pending or, if resolved, a brief description of the resolution).

17. In the past five years has the entity or any of its affiliates made any claim in excess of \$50,000 against a project owner concerning work on a project or payment for a contract and filed or made that claim in court or arbitration?

Yes     No

If “yes,” on a separate page identify the claim by providing the name of claimant, the project name, date of the claim, name of the entity (or entities) against whom the claim was filed, a brief description of the nature of the claim, the court and case number, and a brief description of the status of the claim (pending, or if resolved, a brief description of the resolution).

18. Has the entity or any of its affiliates (or any manager of an affiliate if the affiliate is not a person) ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public entity?

Yes     No

If "yes," explain on a separate page, including identifying who was found liable or guilty, the court and case number, the name of the public entity, the civil or criminal verdict, the date and the basis for the finding.

19. Has there been more than one occasion during the last five years in which the entity or any of its affiliates was required to pay either back wages or penalties for failure to comply with the State's prevailing wage laws?

Yes     No

If "yes," attach a separate page, describing the violator, nature of each violation, name of the project, date of its completion, the public agency for which it was constructed, the number of employees who were initially underpaid and the amount of back wages and penalties that were assessed.

20. During the last five years, has there been an occasion in which the entity or any of its affiliates have been penalized or required to pay back wages for failure to comply with the Federal Davis- Bacon prevailing wage requirements?

Yes     No

If "yes," attach a separate page, describing the violator, nature of each violation, name of the project, date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid and the amount of back wages and penalties that were assessed.



# APPENDIX E-7

## Project Profile Form

[Use same form for all projects]*** Name of Proposer: _____			
General Information:		Project Number*:	
Project Name, Location and Size:			
Original Contract Amount:		Original Completion Date:	
Final Construction Cost**:		Actual Completion Date**:	
Reason for Difference if more than 10%		Type of Facility:	
Proposer's Role: (Prime, Joint Venture, LLC, Integrated DB, Sub):			
Builder (Name):			
Designer of Record (Name):			
Project Delivery Method & RFP Type:			
Private Negotiated		Construction Manager At Risk	
Design-Build w/out Bridging Docs		Design-Build with Bridging Docs	
Design-Bid-Build		Other	
What type of RFP documents were used for this project?			
Performance Requirements		Describe any Awards this project received:	
Prescriptive Specifications			
Bridging Drawings and Specifications			
<b>Past Performance Reference:</b> The City of New York reserves the right to contact this organization or person and conduct a telephone interview for references. Confirm this reference is available.			
Organization:			
Contact Person Title:			
Telephone:			
Email:			
Address:			
City, State, Zip:			
<b>Self-Performance</b>			
Percentage of work self-performed:			
Detailed description of work self-performed:			
Describe any work you subcontracted to others:			
List Key DB Team Members (firm and / or individual) that were critical to this project that are also proposed for the Project.			

\* To match Project Number shown in Appendix D-8

\*\* For projects currently under construction, provide the estimated final construction cost and completion date

\*\*\*Use of this form without modification is mandatory

Provide a general description of the project, including only the project attributes directly applicable to Tab 1 Evaluation Criteria, including a brief description of the DB Team's collaborative approach to Design-Build, including: (a) interactions within the DB Team and with the client during design; and (b) the role and interaction between the design team and the construction team during design and construction of the projects. Images may be included, however no additional pages will be allocated for images.



# APPENDIX E-8

## Project Evaluation Form

**Vendor Evaluation**

Project Name: \_\_\_\_\_ CAP Project Number (if applicable): \_\_\_\_\_

(Contractor - Construction Manager - Builder)

\_\_\_\_\_  
(Project Manager)

\_\_\_\_\_  
(Superintendent)

(Consultant - Designer)

\_\_\_\_\_  
(Project Manager)

\_\_\_\_\_  
(Construction Administration Observer (if applicable))

(Agency)

\_\_\_\_\_  
(Agency Contact)

This evaluation is of the:  Contractor  Consultant  Design-Builder  Other: \_\_\_\_\_

Please rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied/in complete agreement with the statement and 1 representing that you were very unsatisfied/in disagreement with the statement. Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge in a particular area or it is not applicable, leave it blank.

NO	EVALUATION CRITERIA	UNIT	RATING
1	Ability to manage the project cost (minimize change orders)	(1-10)	
2	Ability to maintain project schedule (complete on-time or early)	(1-10)	
3	Quality of workmanship	(1-10)	
4	Professionalism and ability to manage (includes responses and prompt payment to suppliers and subcontractors)	(1-10)	
5	Close-out process (no punch list upon turnover, warranties, operating and maintenance manuals, etc. submitted promptly)	(1-10)	
6	Communication, explanation of risk, and documentation	(1-10)	
7	Ability to follow the State's and/or Agency's rules, regulations, and requirements (housekeeping, safety, etc.)	(1-10)	
8	Overall customer satisfaction and comfort level in hiring the vendor again based on performance	(1-10)	

\_\_\_\_\_  
(Printed Evaluator Name)

\_\_\_\_\_  
(Evaluator Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Email Address)

\_\_\_\_\_  
(Position/ Title)

\_\_\_\_\_  
(Agency/Firm Name)

Comments:

# APPENDIX E-9

Prior Experience Working Together Form



INSTRUCTIONS: For each of the up to 5 projects identified on the Project Profile Forms and listed in the matrix below, indicate the proposed Key Personnel who participated in each project. Clearly indicate project number corresponding to the Project Profile Forms.

	Project 1	Project 2	Project 3	Project 4	Project 5
<b>Design-Build Project Executive</b>					
<b>Engineer-of-Record (Individual)</b>					
<b>Design-Build Project Manager</b>					
<b>Design Integrator</b>					
<b>Design-Build Construction Project Manager</b>					
<b>Safety Manager</b>					
<b>Environmental Manager</b>					

# APPENDIX E-10

## Project Relevancy Form

Project Attributes	Project 1 Title, Location, Client	Project 2 Title, Location, Client	Project 3 Title, Location, Client	Project 4 Title, Location, Client	Project 5 Title, Location, Client
<b>Year Completed or, if currently under construction, expected to be completed</b>					
<b>Attribute (examples)</b>					
Complex Remediation and Demolition Activities					
Involves Demolition of structures and foundations in Dense Urban Environments					
Design-Build Project					
Design-Bid-Build Project					
Project Demonstrating Ability to Minimize Construction Impacts on Surrounding Community					
DBIA Best Practices					
Award-Winning Project (ENR, DBIA, or Similar)					

# APPENDIX E-11

## Resume Form

RESUME FORM

Position/Assignment for the Project:			
Firm Name:		Years of Experience	
Name:		This Firm:	
Title:		Other Firms:	
Degree:		Specialization:	
Year Earned:		Registration:	

# APPENDIX E-12

## Resume Compliance Matrix

Proposed Design-Build Team		Name		Qualifications		Design - Build Project Executive		Engineer-of-Record		Design-Build Project Manager		Design Integrator		Design-Build Construction Project Manager		Safety Manager		Environmental Manager	
Example	John Doe			X	Designated Design-Build Professional														
				X	Experience on Relevant Projects														
				20	Design Experience (Insert Years)														
				15	Construction Experience (Insert Years)														
				8	Design-Build Experience (Insert Years)														
				15	Design or Construction Experience (Insert Years), including on a Design-Build Project														
				X	Authorized to Contractually Bind Company														
				25	Percentage Dedicated to Project														
				X	New York Licensed Engineer														
				15	Experience with Relevant Projects (Insert Years)														
				X	Experience in site civil and medium-large sewer/water work (preferably medium-large sewer design and infrastructure projects for NYCDDC and NYCDEP) in urban environments														
				X	Experience Serving as Engineer-Of-Record on a Design-Build Project (Required)														
				X	Experience in coordination of interagency projects (NYCT/ NYCDEP/ MTA)"														
				X	Degree in Construction Management, Construction Science, Eng or Arch														
				5	Experience in Construction and Construction Mgmt. with Relevant Projects (Insert Years)														
				X	Satisfactory Experience to Control Design and Construction														
				X	Degree in Construction Management, Construction Science, Eng or Arch														
				5	Experience in Design, Const and Const Mgmt with Relevant Projects (Insert Years)														
				X	Experience on a large Design-Build Project														
				X	Degree in Construction Management, Construction Science, Eng or Arch														
				10	Experience in Const and Const Mgmt with Relevant Projects (Insert Years)														
				X	Experience in Administration of City, Municipal, or Federal Projects														
				X	Ability to effectively manage, control, administer and execute integrated design and construction operations, safety, quality control program and subcontracts														
				X	Licensed DOB Site Safety Manager														
				X	Bachelor's Degree or Higher														
				15	Experience in safety work on similar projects (insert Years)														
				X	CSP or CIH Certification														
				X	Bachelor's Degree or Higher														
				10	Experience in environmental management of construction projects with Relevant Projects (Insert Years)														
				X	Experience in Administration of City, Municipal, or Federal Projects														
				X	Ability to effectively manage, control, administer and execute the environmental management of the Relevant Project Shown														

Use of this form without modification is mandatory.



# APPENDIX E-13

## Acknowledgement of Addendum Form

**ACKNOWLEDGEMENT OF ADDENDA**

<p><b>TITLE OF THE REQUEST FOR QUALIFICATIONS:</b> [BBJ-JAIL, DESIGN-BUILD PROGRAM FOR THE NYC BOROUGH-BASED JAIL SYSTEM, THE BRONX SITE PREPARATION]</p>	<p><b>PIN: 8502021CR0001P-3P</b></p>
<p>Instructions: The submitting firm is to complete Part I or Part II of this form (<u>CHECK ONE</u>), whichever is applicable, and sign and date this form. This form serves as the submitter's acknowledgement of the receipt of Addenda to this Request for Qualifications (RFQ) which may have been issued by the Agency prior to the Statement of Qualifications Due Date and Time.</p>	
<p><input type="checkbox"/> Part I Listed below are the dates of issue for each Addendum received in connection with this RFQ.</p> <p>Addendum # 1 dated _____          Addendum # 2 dated _____          Addendum # 3 dated _____          Addendum # 4 dated _____          Addendum # 5 dated _____          Addendum # 6 dated _____          Addendum # 7 dated _____          Addendum # 8 dated _____          Addendum # 9 dated _____          Addendum #10 dated _____</p> <p>All addenda must be signed and <u>included behind this attachment</u>.</p>	
<p><input type="checkbox"/> Part II  No Addendum was received in connection with this RFQ.</p>	
<p>Submitting Firm Name: _____</p>	
<p>Submitting firm's Authorized Representative:</p> <p>Name: _____          Title: _____          Signature: _____          Date: _____</p>	

# APPENDIX F

## **Draft Request for Proposal (Phase II) Information**

## DRAFT REQUEST FOR PROPOSALS (PHASE II) INFORMATION

### 1. NOTICE

Information provided in this section is provided for informational purposes and understanding only. These documents may be revised prior to the issuance of the RFP (Phase II) solicitation. Clarifications and questions will NOT be addressed concerning these documents until after the start of the RFP (Phase II) competition.

### 2. RFP (PHASE II) - DRAFT PROCUREMENT SCHEDULE

DDC intends to conduct the RFP (Phase II) process for the Project based upon the schedule identified below. This schedule is an estimate only and is subject to change. The final solicitation schedule for the Project will be provided to the Short-listed Proposers for the Project when the RFP (Phase II) is issued.

<b>the Bronx Site Preparation</b>	
Issue Draft RFP (Phase II):	January 22, 2021
Issue Final RFP (Phase II):	March 11, 2021
Collaborative Dialogue Meetings:	February 2021 – June 2021
Proposals Due:	July 20, 2021
Notification of Selection of Best Value Proposal:	September 2021
DB Agreement Award:	October, 2021

### 3. RFP (PHASE II) - PRELIMINARY INFORMATION

For the Project, complete RFP (Phase II) solicitation documents will be provided to the Short-listed Proposers. Information listed here is in summarized to provide information to Respondents in evaluating the scope of work that will be expected during contract award.

### 4. RFP (PHASE II) -EVALUATION CRITERIA

The overarching goal for this procurement is to select a Design-Build (DB) Team to design and construct the Project in a manner that provides the best value to the City in support of its vision and mission. Through best value selection, the City is looking for high-quality, innovative and transformative design and solutions, such that the Project is completed on time and within budget. This procurement is not a low-bid procurement.

<b>RFP (Phase II) Evaluation Criteria</b>
Design Excellence and Public Realm
Design, Program, Systems, and Operations
Schedule
Project Plans, Constructability, Logistics, and Site Approach
MWBE Approach
Team, Experience and Financial Strength

5. RFP (PHASE II) -TABLE OF CONTENTS FOR THE SOLICITATION

DDC anticipates that design criteria will be organized according to Construction Specifications Institute (CSI) Uniformat II Standard structure, employing Preferred, Allowed, and Do Not Use elements.

- a. Statement of Work - The Statement of Work will be a key part of the RFP (Phase II) and will include the following information:

Program – The program will describe the needed spaces within the swing space, required adjacencies, and expected populations. Information will be provided about the program objective, site, aesthetic requirements, desired innovation, and iterative design.

- i. It is the intent of the City to allow the Design-Builder the opportunity to innovate, and creatively solve the programming challenges to design and construct the Project.
- b. Performance Specifications: DDC anticipates that the RFP will primarily utilize narrative performance specifications.
- c. Each of the following sections list some, but not all, of the requirements for design and construction after award. The intent of this information is to provide basis descriptions for each section. Full documents will be provided to the Short-listed Proposers for the Project.
- i. Design After Award - Design after award will address the following requirements: Design Quality Control Plan, partnering & project progress, fast tracking design and construction, interim design submittals, over-the-shoulder progress reviews, final design submissions, design submittals, design and code checklists, acceptance and release for construction, record drawings, interior design requirements, and fire and life safety code review.
- ii. Quality Control System (QCS) - QCS Software, users guide, training, database and database maintenance, quality control, submittal management, monthly coordination meetings and notifications of non-compliance.
- iii. Project Schedule - Basis for payment and cost loading, detailed schedule requirements, submission requirements, period schedule meetings, requests for time extensions, directed changes, progress meetings.
- iv. Submittal Procedures - Submittal classifications, approving and disapproving submittals, City approved submittals, for information only submittals, withholding payments, control of submittals, and submittal procedures.
- v. Contractor Quality Control - General requirements of the Quality Control Plan, coordination meetings, quality control organization, submittals and deliverables, tests, complete inspections, and notification of non-compliance.
- vi. Temporary Construction Facilities - Availability and use of utility services, bulletin board, Project sign and safety sign, protection

and maintenance of traffic, maintenance of construction site, and contractor provided City field office.

- vii. Closeout Submittals - Required closeout submittals, Project record documents, equipment data, construction warranty management, mechanical testing, adjusting, balancing, and commissioning, operation and maintenance manuals, red zone meeting, and final cleaning.

# APPENDIX G

## List of Consultant Support Team

<b>NAME</b>
AECOM
Hill International
CSA Group
PMX
PMA
Deborah Bradley
Velez
McKissack
Spectrum Communications
Athena Consulting
M-TO-Pros Development
Voorhis Robertson Justice Services, LLC
Stellar Services
S1 Food Service
Falcon
PTG
Unger Security Solutions, LLC
TRC
Orrick, Herrington & Sutcliffe LLP
Hirani Engineering and Land Surveying
CDB Productions, LLC, DBA, iDEKO Strategies
Infinite Consulting Corp.
Haas Media LLC
Queen Strategy
Haydan Consultants
Marsh*

\* Marsh has been engaged by the City to provide insurance advisory services for the BBJ. However, Marsh is eligible to assist or participate as a DB Team member with any Proposer for any Detention Facility.



# APPENDIX H

## **SUMMARY OF BBJ SELECT DBA PROVISIONS**

**SUMMARY OF SELECT DBA COMMERCIAL TERMS**

This document provides a summary of select commercial terms which may be included in a Design-Build Agreement (“**DBA**”) between each Design-Builder and DDC for each Detention Facility (and any associated demolition or related Work) procured in connection with this RFQ (a “**Project**”).

This document is being provided for informational purposes only and is not intended to be referenced for purposes of negotiating on actual terms of the DBA released in connection with any Project’s RFP.

Additionally, the terms included in this document are not final or binding on the DDC or the City of New York, and are subject to change by the DDC, in its sole discretion, at any time during Phase I or Phase II.

<b>A. CONTRACT PRICE, ALLOWANCE AMOUNTS, AND INCENTIVES / AWARD FEES</b>		
<b>1.</b>	<b>Contract Price</b>	The Design-Builder and DDC will enter into a fixed price, lump sum, date-certain design-build agreement under which payments to the Design-Builder will be made pursuant to monthly progress payments based on a percentage of Work completed and paid against the Design-Builder’s schedule of values (the “ <b>Lump Sum Amount</b> ”, with the Allowance Amounts ( <i>defined in A.2 Allowance Amounts below</i> ) in the aggregate, the “ <b>Contract Price</b> ”).
<b>2.</b>	<b>Allowance Amounts</b>	<ul style="list-style-type: none"> <li>• <b>Generally</b> - For ease of contract administration, and to accelerate payment for certain risk factors that are unquantifiable prior to submission of a Proposal, the DDC is considering including certain specified amounts for the funding of definable costs associated change proposal costs in certain circumstances (e.g., owner requested change proposals), economic price adjustments for certain labor and materials, differing site conditions, incentive provisions, and other non-fixed items (the “<b>Allowance Amounts</b>”).</li> <li>• <b>Unused Allowance Amounts</b> – To the extent included in the DBA, each Proposer will be required to include specified Allowance Amounts in its Proposal’s Contract Price, subject to adjustment to reflect any unused portions of such amounts.</li> <li>• <b>Additional Relief</b> – To the extent included in the DBA, where any Allowance Amount for a particular item is exceeded, the Design-Builder will still be entitled to claim recovery of amounts it believes is owed to it in connection with any Compensable Delay Event or other mechanisms in the DBA established to allow recovery of costs beyond a depleted amount, in either case, through a claim for a change order, as described further in Part F (<i>Events Impacting Schedule</i>) below.</li> </ul>
<b>3.</b>	<b>Mobilization Payment</b>	The Design-Builder will be entitled to payment for mobilization in an amount anticipated not to exceed 5% of the Lump Sum Amount, upon DDC approval of an acceptable requisition for the mobilization payment. The mobilization payment may include costs for certain Work completed prior to the DBA’s execution (with the DDC’s approval) and the cost for certain long-lead time equipment, such as detention hardware, sub-contractor mobilization costs and initial design fees for a specified number of months, insurance costs, performance bond and payment bond costs, office lease and mobilization costs, and general conditions costs for a specified number of months. It is

<b>A. CONTRACT PRICE, ALLOWANCE AMOUNTS, AND INCENTIVES / AWARD FEES</b>		
		intended for the Design-Builder to include a draft of its mobilization payment request with its Proposal, and to confirm such amounts shortly following award. DDC's approval of the Design-Builder's mobilization payment request in advance of registration of the DBA will enable DDC to remit payment upon or shortly following registration of the DBA. Fundamental to this timing will be reaching agreement between the parties as far in advance of registration of the DBA as possible.
4.	<b>Early Completion Incentives and Award Fees</b>	<ul style="list-style-type: none"> <li>• <b>Early Completion Bonus</b> - The DDC anticipates including an early completion bonus for certain Completion Deadlines on the Project. Such early completion bonus may be sized to a percentage of the total Lump Sum Amount for the Project.</li> <li>• <b>Award Fee Program</b> - The DDC is considering inclusion of an award fee program. The purpose of the award fee program will be to motivate and incentivize the Design-Builder's performance under the DBA in areas that are susceptible to qualitative measurement and evaluation, including but not limited to technical solutions, logistics performance, community interruption, responsiveness and solutions, stakeholder engagement, overall responsiveness, submittals compliance, and organization and management. Generally, an award-fee program will provide for a total amount (above the Lump Sum Amount) that can be earned based upon the DDC's evaluation of the Design-Builder's performance in critical areas. The amount and the actual award fee program will be discussed and agreed with the DDC and the Design-Builder following award of the DBA and as part of the early partnering workshops following the DBA's agreement date.</li> </ul>

<b>B. DESIGN &amp; CONSTRUCTION GENERALLY, WARRANTY PERIOD AND INSURANCE</b>		
1.	<b>Design &amp; Construction</b>	<p>The Design-Builder will be responsible for the overall design and construction of the Project in accordance with the DBA and any allowance approvals, change orders, amendments, record drawings and construction documents (the "<b>Contract Documents</b>").</p> <p>As part of the Design-Builder's obligation to perform the design and construction Work, the Design-Builder must furnish all materials, equipment, labor, installations, demolition (where applicable), engineering, site safety and security, construction management, quality management and controls, and other Work necessary and appropriate to ensure the Project is operational as of the Substantial Completion deadline in accordance with the performance criteria and technical requirements in the DBA.</p>
2.	<b>Warranties</b>	<p>The Design-Builder will warrant to the DDC that:</p> <ul style="list-style-type: none"> <li>(i) all design Work performed under the Contract Documents, including that performed by its Subcontractors and manufacturers, will be completed in accordance with the requirements of the Contract Documents, and will be performed in accordance with the standard of care, skill and diligence as would be provided by an engineering or architecture firm experienced in supplying similar services</li> </ul>

**B. DESIGN & CONSTRUCTION GENERALLY, WARRANTY PERIOD AND INSURANCE**

		<p>nationally in the U.S. to entities owning projects of similar technology, complexity and size to that of the Project;</p> <p>(ii) all construction Work (including all materials and equipment furnished as part of the construction Work) will be (A) completed in accordance with the requirements of the Contract Documents; (B) new, unless otherwise specified in the Contract Documents; (C) of good quality, undamaged and in conformance with all requirements of the Contract Documents; and (D) free of all defects in materials and workmanship. The completed Project must perform its intended functions as explicitly described or implied in the Contract Documents; and</p> <p>(iii) the final design documents, the final construction documents, the record drawings and all other records required under the DBA will be (A) accurate and complete; (B) in conformance with all requirements of the Contract Documents; and (C) accurate in their reflection of the Project's condition as of Final Completion.</p> <p>During the <b>“Warranty Period”</b>, which will be:</p> <p>(a) for all Work completed on, or prior to, Substantial Completion, 24 months from the date of Substantial Completion;</p> <p>(b) for all Work completed between Substantial Completion and Final Completion, twenty-four months from the date of Final Completion; and</p> <p>(c) for any defect rectification Work during the periods stated in (a) and (b) above, a single additional twenty-four months from completion of any such defect rectification Work,</p> <p>the Design-Builder must, at its cost, promptly and completely correct any defects and nonconforming Work.</p> <p>Should the Design-Builder fail to promptly remedy such defects or nonconforming Work during the Warranty Period in accordance with the DBA, the DDC may perform such corrective Work or engage a third party to do so, and the Design-Builder will be required to reimburse the DDC for all costs and expenses incurred by the DDC in performing such corrective Work.</p> <p>Any installed equipment (HVAC, elevators, etc.) used by the Design-Builder during the performance of the construction Work prior to Substantial Completion must be refurbished to the required warranty standard for Substantial Completion, and the Design-Builder must ensure that any manufacturers' warranties for such equipment are extended to meet the minimum warranties in the DBA that are required to commence upon the Substantial Completion date.</p> <p>The Warranty Period is in addition to, and without substitution for, any other statutory or legal rights afforded to the DDC or the City under applicable State or City law for any breach of the DBA or latent defect.</p>
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<b>B. DESIGN &amp; CONSTRUCTION GENERALLY, WARRANTY PERIOD AND INSURANCE</b>	
<b>3.</b>	<p><b>Insurance</b></p> <p>DDC anticipates permitting, but not requiring, a contractor-controlled insurance program for the Project. Other market-standard insurance provisions will also be included in the DBA.</p>

<b>C. COMPLETION DEADLINES AND DDC OVERSIGHT AND QUALITY CONTROL / ASSURANCE</b>	
<b>1.</b>	<p><b>Completion Deadlines</b></p> <p>The Design-Builder commits to develop the Project in accordance with the time periods set out in the Design-Builder’s proposed Project schedule to be attached to the DBA, to be achieved by the guaranteed deadlines, including the following <b>“Completion Deadlines”</b>:</p> <ul style="list-style-type: none"> <li>• a deadline for <b>“Substantial Completion”</b>; and</li> <li>• a deadline for <b>“Final Completion”</b>.</li> </ul> <p>The Project Description Appendices include specific outside dates which each Proposer may not exceed in its Proposal’s Completion Deadlines included in its Proposal to the DDC during Phase II.</p> <p>To the extent the Design-Builder fails to achieve Substantial Completion by the applicable Completion Deadline, a long-stop period is anticipated to be included in the DBA which will afford the Design-Builder additional time to achieve Substantial Completion prior to triggering an event of default under the DBA (the <b>“Long-Stop Date”</b>).</p> <p>In addition, other interim milestones may be identified in the DBA, for purpose of measuring potential early completion incentive payments (<i>as described in A.4 (Early Completion Incentives and Award Fees)</i>) and potential liquidated damages.</p>
<b>2.</b>	<p><b>The DDC’s Right to Review and Inspect and Design-Builder Quality Assurance and Quality Control</b></p> <ul style="list-style-type: none"> <li>• <b>DDC Oversight Rights</b> - The DDC will have right to review, inspect and monitor the Work in the ordinary course and heighten such oversight in the event of a breach or default by the Design-Builder. The DDC also expects to take responsibility for performing certain special inspections, as further described in the RFP.</li> <li>• <b>Design-Builder QA/QC Obligations</b> - Notwithstanding the DDC’s inspection and monitoring rights, the Design-Builder will have full responsibility for quality assurance and quality control on the Project and the Design-Builder will be required to coordinate with DDC to comply with such responsibilities in accordance with a QA/QC plan to be delivered by the Design-Builder and approved by DDC.</li> </ul>

<b>D. PERFORMANCE SECURITY</b>	
<b>1.</b>	<p><b>Performance Bond &amp; Payment Bond</b></p> <p>The Design-Builder will be required to deliver a performance bond and payment bond for the Project, on or prior to, the DBA’s agreement date. The DDC expects that the performance bond must be sized to an amount not to exceed 100% of the Contract Price (<i>as defined in A.1 (Contract Price) above</i>)</p>

<b>D. PERFORMANCE SECURITY</b>		
		<p>and the payment bond must be sized to an amount equal to 100% of the Contract Price.</p> <p>The DDC is exploring the possibility of permitting the bonds to step-down following Substantial Completion and Final Completion (<i>each as defined in C.1 (Completion Deadlines)</i>).</p> <p>The DDC will be entitled to claim on any performance bond following any Design-Builder default under the DBA.</p>
<b>2.</b>	<b>Retainage</b>	<p>As security for the Design-Builder's performance, the DDC will retain 5% from each monthly payment (each, a "<b>Retainage Amount</b>"). Alternatively, in lieu of the DDC's retention of the Retainage Amount, the Design-Builder may post a retainage bond, letter of credit or other liquid security as may be approved by the DDC in an amount equal to 5% of the Lump Sum Amount. The DDC may apply a portion of the total Retainage Amounts or liquid security that it holds or are made available to it at any time to cover any of the DDC's costs or losses incurred due to any Design-Builder breach or default or other reason stated in the DBA.</p> <p>Following Substantial Completion, the DDC will release and return to the Design-Builder the total Retainage Amounts that it holds, less 200% of any amounts estimated by the DDC (in consultation with the Design-Builder) to be necessary to secure the Design-Builder's completion of all remaining Work required for Final Completion, to be released as and when identified components of remaining Work are completed by the Design-Builder prior to Final Completion, with any remaining balance paid with the final payment.</p> <p>In addition, DDC plans to include certain earlier releases of Retainage Amounts back to the Design-Builder for discrete packages of Work (e.g. upon completion of all Design Work for the benefit of the Designers) or for the benefit of certain smaller Subcontractors to be identified in the RFP.</p>
<b>3.</b>	<b>Guaranty</b>	<p>Guaranties may be required by parent guarantors (approved by the DDC) of each Principal Participant if the Proposer or a Principal Participant is not a parent company for the Proposer or such Principal Participant, as applicable. If a guaranty is required, the Design-Builder must provide the DDC with a guaranty in which the parent guarantor guarantees all the Design-Builder's obligations under the DBA, executed by the applicable parent company on, or before, the DBA's agreement date.</p>

<b>E. GOVERNMENTAL APPROVALS, ENVIRONMENTAL COMPLIANCE, THIRD-PARTY COORDINATION &amp; LEED</b>		
<b>1.</b>	<b>Governmental Approvals</b>	<p>Except with respect to the DDC's obligation to obtain, based on the agreed design, the final environmental impact statement and Notice of Completion, ULURP, changes to the City map, zoning amendments and State Commission on Correction approval for the Project, the Design-Builder will be responsible for obtaining and maintaining throughout the term of the DBA, all other governmental approvals (including any application, revision, modification, amendment, supplement, renewal or extension to any governmental approval) required in connection with its performance of the</p>

<b>E. GOVERNMENTAL APPROVALS, ENVIRONMENTAL COMPLIANCE, THIRD-PARTY COORDINATION &amp; LEED</b>		
		Work (or any approved Design-Builder alternative technical concept), at its sole cost and expense. The Design-Builder will be required to comply with and maintain all governmental approvals and will be responsible for any amendments or modifications that may be necessary thereafter based on the Design-Builder's performance of the Work.
<b>2.</b>	<b>Environmental Compliance</b>	The Design-Builder will be required to design and construct the Project, so that it complies with, and can be operated in compliance with, all requirements and conditions (including all mitigation) to be satisfied under the Contract Documents, the final environmental impact statement, applicable laws, applicable standards and governmental approvals, and the other requirements, policies and guidelines of the DDC and the City, concerning the environment and hazardous materials that are applicable to the Project site or the Work.
<b>3.</b>	<b>Hazardous Materials</b>	<p>As part of the Work, the Design-Builder will be responsible for the management, treatment, handling, storage, monitoring, remediation, removal, transport and disposal of all hazardous materials that are encountered in, under or on the Project site during performance of the Work.</p> <p>The Design-Builder will be responsible for obtaining and maintaining all governmental approvals relating to any remedial action and will be solely responsible for compliance with all governmental approvals and applicable laws concerning or relating to such hazardous materials.</p> <p>As between the DDC and the Design-Builder:</p> <p>(i) the Design-Builder will be deemed the sole generator and arranger under 40 C.F.R., Part 262 with respect to any hazardous materials brought to the Project site by the Design-Builder or Design-Builder Party or released by the Design-Builder or any Design-Builder Party; and</p> <p>(ii) the DDC or its designee will be deemed the sole generator and arranger under 40 C.F.R., Part 262 with respect to any hazardous materials removed from the Project site for disposal that are expressly not the responsibility of the Design-Builder under the DBA.</p> <p>Relief for unknown hazardous environmental conditions is described further in Part F (<i>Events Impacting Schedule</i>) below.</p>
<b>4.</b>	<b>Utilities and Other 3<sup>rd</sup> Party Interfaces</b>	<ul style="list-style-type: none"> <li>• <b>Generally</b> - The Design-Builder will be responsible for obtaining at its cost, all utilities that it requires to undertake and timely complete the Work, all in accordance with the general conditions. The DDC may assist, as reasonably requested by the Design-Builder, in coordinating and communicating with any utilities relevant to the Project.</li> <li>• <b>Utility Relocations</b> - The Design-Builder will be responsible for coordinating and causing all necessary utility relocations within their project scope. The Design-Builder will be required to fulfill this responsibility by coordinating directly with utilities to perform such utility relocations. The Design-Builder must preserve the integrity and</li> </ul>



<b>E. GOVERNMENTAL APPROVALS, ENVIRONMENTAL COMPLIANCE, THIRD-PARTY COORDINATION &amp; LEED</b>		
		<p>maintain the ability of the DDC, the City or any other City agency or stakeholder (or its respective contractors and suppliers) to use and operate utilities that are not required to be relocated.</p> <ul style="list-style-type: none"> <li>• <b>Early Work</b> – The DDC is procuring certain design-bid-build utility relocation Early Work packages as described in each of the respective Project Description Appendices.</li> <li>• <b>Relief</b> – To the extent applicable, if there is a defect or delay in any such Early Work package described above, the Design-Builder may be entitled to claim a Compensable Delay Event as described further in F.2 (<i>Compensable Delay Events</i>) below. Additionally, the DDC is considering including an Allowance Amount / Compensable Delay Event for unknown utilities discovered within the Project site, as described further in F.2 (<i>Compensable Delay Events</i>) and Part G (<i>Unknown Conditions</i>) below.</li> </ul>
<b>5.</b>	<b>Other Third-Party Interface</b>	<ul style="list-style-type: none"> <li>• <b>Early Work Design-Builder Interface</b> - The Design-Builder will be expected to dedicate, where applicable, a portion of its project coordination plan for its interface with any Early Work contractors that are required to complete their work (including with respect to utilities coordination) as a prerequisite to the Design-Builder taking over the Project site.</li> <li>• <b>Follow-on Detention Facility Design-Builder Interface</b> - The Design-Builder will be expected to dedicate a portion of its project coordination plan for its interface with the follow-on design-builder that will design and construct a new Detention Facility at the site after the Design-Builder has achieved Final Completion, which design-builder may require access and site information from the Design-Builder for Detention Facility design activities. DDC anticipates that a follow-on design-build agreement will be awarded to another design-builder approximate to the Design-Builder's scheduled Substantial Completion date.</li> <li>• <b>NYC Agency Interface</b> – The DDC is coordinating with various New York City agencies, including, but not limited to, New York City Department of Transportation, New York City Department of Environmental Protection and the New York City Department of Citywide Administrative Services, to prepare City agencies for the expectations and requirements of the BBJ. The Design-Builder will be expected, in coordination with DDC, to manage its interface with City agencies and will be required to dedicate a portion of its Project coordination plan for its interface with such City agencies.</li> <li>• <b>MTA</b> - The DDC anticipates having an understanding or memorandum of understanding in place with the Metropolitan Transportation Authority and the New York City Transit Authority (collectively, the “<b>MTA</b>”) in advance of the DBA's agreement date, to govern key interfaces between the MTA, the DDC, the Design-Builder and the Project. As a result, the DDC anticipates it will serve as a pass-through conduit for communication with MTA and the</li> </ul>



<b>E. GOVERNMENTAL APPROVALS, ENVIRONMENTAL COMPLIANCE, THIRD-PARTY COORDINATION &amp; LEED</b>		
		<p>Design-Builder will be required to comply with the terms of any agreement between MTA and the DDC relevant to the Project on a back-to-back basis, as applicable. Such terms of any MTA interface may cover indemnities and the provision of force account services by MTA to support any component of the Project that interfaces with MTA stations or assets. The DDC will be responsible for funding any such force account on terms to be provided in the DBA.</p> <ul style="list-style-type: none"> <li>• <b>Relief</b> – See Part F (<i>Events Impacting Schedule</i>) below for relevant relief DDC is considering providing to the Design-Builder.</li> </ul>
<b>6.</b>	<b>LEED Certification and Sustainability Design Guidelines</b>	<p>The follow-on Detention Facility project will, at a minimum, achieve LEED Gold certification and may aggregate sustainable design and construction practices of both this Early Works and the follow-on Detention Facility projects. The Design-Builder will be obligated to perform the Work in accordance with LEED Gold certification practices and standards, and to comply with certain other sustainability design goals and guidelines set forth in the DBA.</p>

<b>F. EVENTS IMPACTING SCHEDULE</b>		
<b>1.</b>	<b>General Information</b>	<p>DDC is planning to include in the DBA design-build market standard provisions for relief and compensation payable to the Design-Builder (“<b>Compensable Delay Events</b>”) and for time extensions in favor of the Design-Builder for specific events which are consistent with Design-Build best practice and are beyond the control of the Design-Builder (“<b>Delay Events</b>”), except to the extent attributable to either (A) any breach of (i) the DBA, (ii) applicable law, or (iii) any agreement with a utility owner or any governmental approval or (B) any negligence, recklessness or willful misconduct, in each case, by the Design-Builder, any Principal Participant, any Project Guarantor, any Subcontractor, or any other person performing any of the Work on, or behalf of, the Design-Builder (a “<b>Design-Builder Party</b>”).</p>
<b>2.</b>	<b>Seeking Relief for a Delay Event / Compensable Delay Event / Force Majeure Event / Change in Law</b>	<p>If a Delay Event occurs, the Design-Builder may (where provided for in the DBA) request an Allowance Amount approval / withdrawal, and/or a change order, as applicable, for one or more of the following in accordance with, and subject to, the requirements for timely notice, mitigation, exhaustion of all float, and evidentiary support required in the DBA:</p> <p>(a) an extension to the Completion Deadlines for one or more Completion Milestones;</p> <p>(b) in the case of a Compensable Delay Event only, either an Allowance Amount draw request or an adjustment to the Contract Price, as applicable for any net costs that the Design-Builder has incurred, or will incur, as a direct result of a Compensable Delay Event; and</p> <p>(c) relief from default for failing to perform any Work directly impeded by such Delay Event.</p>

F. EVENTS IMPACTING SCHEDULE	
	<p>Any net costs calculated as part of a Compensable Delay Event will be based upon various factors including:</p> <p>(i) direct labor costs, (ii) necessary materials, (iii) reasonable rental values, (iv) insurance and bonding costs, (v) extended field overhead, (vi) labor and material escalation, (vii) storage costs, and (viii) extended home office overhead.</p> <p>To the extent provided for in the DBA, the Design-Builder will be entitled to request either: (i) Allowance Amount draw requests only to the extent any Allowance Amounts remain available, and (ii) change orders, where such Allowance Amounts have been depleted.</p>

G. UNKNOWN CONDITIONS	
<p><b>1. Unknown Site Conditions</b></p>	<ul style="list-style-type: none"> <li>• <b>DDC Site Investigation Work</b> – The DDC’s project management consultant is currently performing detailed site investigations of each Project site within the BBJ. These site investigations include surveys of the existing buildings, geotechnical borings, utility surveys, asbestos testing and other similar investigations. To the extent legally permissible, the DDC anticipates providing any such relevant information to each of the Short-listed Proposers during Phase II (RFP).</li> <li>• <b>Design-Builder Responsibility</b> –</li> </ul> <p>Notwithstanding the DDC’s advance site investigations, the Design-Builder will also be required to undertake all tests, inspections and investigations of the Project site (including additional geotechnical evaluations, hazardous materials or utility studies) as the Design-Builder deems necessary to perform its obligations under the DBA.</p> <p>The Design-Builder will also represent and warrant in the DBA that it has familiarized itself with the Project site, its physical conditions, including all site conditions, normal and usual soil conditions, roads, the existence of obstacles to performing the Work, the availability and presence of utilities, topographical conditions and air and water quality conditions, the location and character of existing or adjacent work and structures, the surrounding locations and other general and local conditions (including equipment and labor), based on the documents made available during Phase II and a visible inspection of the Project site and surrounding locations, and all other conditions which may be material to the Design-Builder’s performance of the Work (including transportation; seasons and climate; access, availability, disposal, handling and storage of materials and equipment; and availability and quality of labor).</p> <p>Accordingly, as described in the definition of Compensable Delay Events, and subject to the Site Validation Period described in G.2 (<i>Site Validation</i>) below, the DDC will only provide compensation</p>

G. UNKNOWN CONDITIONS		
		<p>and/or schedule relief to the Design-Builder for those unknown site conditions that:</p> <ul style="list-style-type: none"> <li>(i) existed in, on or under a portion of the Project site prior to the date on which the Design-Builder gains possession of the relevant portion of the Project site and that represents a materially different condition to that described in the available documents (provided by the DDC) (the “<b>Available Documents</b>”); and</li> <li>(ii) are not conditions that could reasonably have been identified or discovered by an appropriately qualified and experienced contractor, engineer or expert working in that field exercising due care and skill and best management practice in the same or equivalent circumstances through review and analysis of (A) the Available Documents or (B) through the equivalent type of Project site access granted to the Design-Builder, that, in each case, were available prior to the Proposal Due Date.</li> </ul> <ul style="list-style-type: none"> <li>• <b>Defined Terms</b> – Unknown site conditions, as described above, will include unknown hazardous environmental conditions, unknown geotechnical conditions, unknown physical conditions (e.g., physical structures existing within, or on, the Project site), unknown utilities, unknown endangered species and unknown archaeological remains.</li> <li>• <b>Relief Provided</b> – Subject to the Site Validation Period described in G.2 (<i>Site Validation</i>) below, if at any time during the performance of the Work, the Design-Builder becomes aware of any unknown site condition, as defined above, the Design-Builder will be entitled to claim a Compensable Delay Event in accordance with the terms of the DBA and the DDC is considering providing compensation through an Allowance Amount draw or, where applicable Allowance Amounts have been depleted, through a change order (<i>as described above in A.2 (Allowance Amounts)</i>).</li> </ul>
2.	<b>Site Validation</b>	<p>In the DBA, the DDC anticipates limiting the ability of the Design-Builder to claim a Compensable Delay Event for certain specified (<i>not all</i>) unknown conditions by allowing claims to be made only during a set time period to be specified in the DBA (“<b>Site Validation Period</b>”). The precise time period for the Site Validation Period and the specific unknown conditions for which the Design-Builder will be limited in making Compensable Delay Event claims to the Site Validation Period, are still being assessed by the DDC; however, the DDC anticipates that they will largely be selected based on (i) the DDC’s lack of certainty regarding such condition, (ii) the potential impact discovery of such condition would have on the overall critical path and any Work already completed on the Project and (iii) the amount of time reasonably necessary to discover any such conditions.</p> <p>Following the Site Validation Period, (where provided for in the DBA) the Design-Builder will not be entitled to an Allowance Amount draw, change order or to otherwise claim any extension of time or recovery of cost, on the</p>

<b>G. UNKNOWN CONDITIONS</b>		
		basis of any unknown conditions for which claims are permitted solely during the Site Validation Period.

<b>H. EVENTS OF DEFAULT</b>		
<b>1.</b>	<b>Design-Builder Defaults / DDC Termination of the DBA</b>	<p>The DDC will be entitled to terminate the DBA on market standard terms as well as subject to various cure periods, for several market-standard events of default. Failure to achieve Substantial Completion by the applicable outside Completion Deadline (Long-Stop Date) will be deemed a Design-Builder default and entitle the DDC to terminate the DBA.</p> <p>The DDC anticipates including a process for remedial plans to avoid any hair-trigger termination scenarios.</p> <p>The DDC also anticipates including other market-standard remedial and termination rights for the benefit of the DDC in the DBA.</p>
<b>2.</b>	<b>Design-Builder Suspension Rights</b>	The DDC anticipates including suspension rights for the benefit of the Design-Builder for any DDC material failure to timely make payment.

<b>I. M/WBE / SUBCONTRACTING</b>		
<b>1.</b>	<b>Minority and Women-owned Business Enterprise Provisions</b>	The Design-Builder must comply, and must require its Subcontractors to comply, with the M/WBE requirements described more fully in the RFQ.
<b>2.</b>	<b>Subcontracting</b>	<p>Subject to the terms of the DBA, the Design-Builder will be required to subcontract portions of the Work only to Subcontractors that have been approved by DDC in writing. The DDC may grant its approval subject to reasonable conditions and may rescind its approval of a Subcontractor in accordance with the terms of the DBA.</p> <p>If a Subcontractor fails to perform its Work in accordance with the DBA, the Design-Builder must perform the Work itself or through other approved Subcontractors.</p> <p>The Design-Builder must retain or cause to be retained only Subcontractors that are qualified, experienced and capable of performing the portion of Work to be performed by that Subcontractor at least in accordance with best management practice.</p> <p>The Design-Builder will be fully responsible under the DBA for the acts and omissions of all Subcontractors performing any work or services in relation to the Work, as if they were the acts and omissions of the Design-Builder. All Subcontractors identified in the SOQ must be carried forward as the Subcontractors performing the Work under the DBA, except where expressly authorized by the DDC to replace any such Subcontractor for good cause.</p>

3.	<b>Key Personnel and Subcontractors</b>	The Design-Builder must retain, employ and utilize (or where applicable, must ensure that the relevant Key Subcontractor retains, employs and utilizes) the individuals specifically listed as Key Personnel (or any replacements approved) to fill the corresponding positions until all responsibilities of that position have been completed. All Key Personnel identified in the SOQ must be carried forward as the Subcontractors performing the Work under the DBA, except where authorized by the DDC due to certain specified uncontrollable life events, (e.g. death, injury, relocation, termination, etc.).
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1.	<b>Indemnification</b>	The Design-Builder will be required to release, defend, indemnify and hold harmless the DDC and the City of New York and their respective officials, employees, agents and authorized representatives for certain acts under the DBA in accordance with a market-standard indemnity clause.
2.	<b>Limitation on Liability</b>	<p>The maximum aggregate liability of the Design-Builder under the DBA and with respect to losses incurred by the DDC for termination of the Design-Builder for default will be limited to a certain percentage of the Contract Price to be set out in the DBA in a manner that is consistent with general market practice.</p> <p>A separate sub-limit on liability for liquidated damages may also be included in the DBA.</p> <p>The limitation of liability will be subject to certain market standard exclusions.</p>
3.	<b>Partnering &amp; Dispute Resolution</b>	<ul style="list-style-type: none"> <li>• <b>Partnering</b> - The DBA will include a partnering mechanism to enhance and secure a high-level of cross-collaboration and coordination between the DDC and the Design-Builder from the commencement of the Work. The focus of the partnering provisions will be to resolve all differences at the lowest levels before they advance to formal disputes.</li> <li>• <b>Escalation Ladder</b> - The DBA will require the Design-Builder and the DDC to submit to an escalating dispute resolution procedure commencing with discussions among personnel and if an informal dispute is unresolved after certain time periods, progressing to             <ul style="list-style-type: none"> <li>○ (i) first senior representative negotiations (with a mandatory exchange of information and at the option of the parties, inclusion of a professional mediator); and</li> <li>○ (ii) if still unresolved through thirty-day senior representative negotiations, to a hearing before a Disputes Review Board.</li> </ul> </li> <li>• <b>Disputes Review Board –</b> <ul style="list-style-type: none"> <li>▪ <b>Composition</b> - The Disputes Review Board will be comprised of three independent members, one member appointed by each of the Design-Builder and the DDC and</li> </ul> </li> </ul>

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		<p>the third appointed from a list agreed between the Design-Builder and DDC appointed members.</p> <ul style="list-style-type: none"> <li>▪ <b>Hearings / Decisions</b> – All hearings and any decisions by the Disputes Review Board must be completed and made within a limited period of time by majority vote of the members, and each of the Design-Builder and the DDC will be afforded a reasonable opportunity to be heard by the Disputes Review Board and to offer evidence.</li> <li>▪ <b>Not Final &amp; Binding</b> - The decisions of the Disputes Review Board will not be final and binding unless the Parties expressly accept such recommendations in writing or are deemed to accept such recommendation in failing to respond within the time set forth in the DBA.</li> </ul> <ul style="list-style-type: none"> <li>• <b>Judicial Action</b> <p>Only after exhausting each of the alternative dispute procedures above, and if any of the Parties do not accept a recommendation of the Disputes Review Board, is either Party then entitled to file a plenary claim with a court of competent jurisdiction sitting in the City and County of New York.</p> </li> <li>• <b>Ineligible Disputes</b> <p>Certain types of disputes will not be subject to the alternative dispute resolution process and will be litigated under a plenary action as described above by a court of competent jurisdiction in the City of New York. These types of ineligible disputes are expected to include those that are beyond the scope of the Work, including patents, copyrights, trademarks or trade secrets, or relating to proprietary rights in computer software, as well as injunctive relief, insurance claims, torts, prevailing wage or employment disputes, ethical violations and disputes involving third-parties.</p> </li> <li>• <b>Fast-Track Disputes</b> <p>The Parties may elect to fast-track the resolution of a dispute to the Disputes Review Board with respect to certain disputes relating to either (i) amounts or change orders that exceed 5% of the Contract Price or (ii) are in connection with DDC’s refusal to certify Substantial Completion.</p> </li> </ul>
4.	<b>Governing Law</b>	New York