

## BID ADVERTISEMENT

Sealed proposals will be received by the City Clerk of the City of Rome, New York, until 3:00 P.M. local time, January 11, 2018, for the following project:

**RFB-2017-030**  
**Bellamy Harbor Park East Docking Material**  
**Supply & Delivery**

Bids will be publicly opened and read aloud at 3:00 P.M., local time, the same day, January 11, 2018 in the Council Chambers, 2nd Floor, City Hall, Rome, New York.

All proposals shall be made on forms furnished and shall be enclosed in a sealed envelope marked to the attention of the City Clerk as follows:

RFB-2017-030  
Bellamy Harbor Park East Docking Material Supply & Delivery  
(Bidder's Name)

Project Location: 420 Harbor Way, Rome, NY 13440.

Owner: City of Rome.

Owner's Representative:

Dan Carpenter  
CED Project Manager  
198 Washington St., Rome NY, 13440  
315-339-7635

Engineer:

Plumley Engineering  
Julian Clark, P.E.  
8232 Loop Road  
Baldwinsville, NY 13027

**PROJECT DESCRIPTION:** Project involves the supply and delivery of docking materials and appurtenances. The dock installation is not part of this project and is anticipated to be installed sometime in the future.

Bids will be advertised electronically at [www.romenewyork.gov](http://www.romenewyork.gov); under the treasurer and purchasing tab, or go to: [www.empirestatebidsystem.com](http://www.empirestatebidsystem.com). Bids are also advertised with the Mohawk Valley Builders Exchange at: [www.mvbe.com](http://www.mvbe.com); Bid Opportunities at [www.centralnybidsystem.com](http://www.centralnybidsystem.com); Syracuse Builders Exchange at: [www.syabex.com](http://www.syabex.com); and the New York State Contract Reporter at: [www.nysct.org](http://www.nysct.org). The plans are available for download (Adobe PDF) at the City's website on the purchasing tab at no charge; however, be advised that incomplete bids will be disqualified.

Plans, specifications, proposal forms and other contract documents may be examined at the office of the City Engineer, Third Floor, City Hall, Rome, New York, or secured for bidding purposes at the same office upon payment of a plan fee of \$40.00. An additional non-refundable charge of \$10.00 in a

separate check for each project will be made for mailing. Checks should be drawn to the City of Rome. If paid in cash the bidder of record will be refunded by money order. The cost of the money order \$5.00 will be deducted from the plan fee only.

Upon return of unmarked drawings, specifications, and other contract documents within two weeks after the date set for receipt of bids, bidders of record only will be refunded their bid deposit of \$40.00, for each set of drawing up to two sets.

Bids shall be accompanied by money order, certified check or bid bond in the amount of five percent (5%) of the bid, payable to the order of the City Clerk, City of Rome, New York. The successful bidder will be required to furnish a Performance Bond and a Labor and Materials Bond in the amount equal to the contract award.

Contractors that obtain contract documents from a source other than the issuing office must notify the issuing office in order to be placed in the official plan holder's list, in order to receive addenda and other bid correspondence. Please contact the City of Rome CED Project Manager at (315)838-1726 with your name, bid packet obtained, and email address to be placed on the official plan holder's list. Bids received from contractors other than those on the official plan holder's list will not be accepted.

Addenda, if any, will be issued only to those persons whose name and address are on record with the City as having obtained a bid packet. Addenda to the bid, when issued, will be on file in the Engineering Office at least five days before the bid opening date. If addenda's are issued for this contract all official plan holders will be issued with addenda by mail or email. The acknowledgement of addenda is found on the Bid Form.

**All questions should be directed to the Plumley Engineering electronically at [jclark@plumleyeng.com](mailto:jclark@plumleyeng.com).**

This project is partially funded through the New York State Department of State. All components of this project are subject to the following conditions:

All components of this project are subject to Article 15-A of the New York State Executive Law and New York Code of Rules & Regulations, Title 5 (NYCRR) Parts 140-145, concerning criteria for contractor MBE/WBE Participation. **MINORITY & WOMEN OWNED BUSINESS ENTERPRISE (M/WBE) PARTICIPATION GOAL OF 20% FOR ALL SUBCONTRACTS & SUPPLIERS.**

It is the policy of the City of Rome to encourage the greatest possible participation of minority and women-owned business enterprises. All qualified Minority and Women-Owned Business Enterprises (MWBE) suppliers, contractors, and/or businesses will be afforded equal opportunity without discrimination because of race, color, religion, national origin, sex, age, disability or sexual preference.

No bidder may withdraw their Bid within sixty (60) days after the date set for the opening thereof. Incomplete bids will be disqualified.

The City of Rome, New York, reserves the right to reject any or all proposals or to accept any bid deemed to be in its best interest.

Special Notes:

1. Contractor shall include the following provision in any agreement with a subcontractor or agent receiving State funds or State-authorized payments from the Contractor to provide program or administrative services under this Agreement:

[Name of subcontractor/agent] acknowledges that, pursuant to this Agreement, it is receiving "State funds" or "State-authorized payments" originating with, passed through, or approved by the New York State Department of State in order to provide program or administrative services on behalf of [Name of CONTRACTOR]. If at any time during the life of this Agreement [Name of subcontractor/agency] is a "covered provider" within the meaning of Section 144.J(d) of DOS regulations, [Name of subcontractor/agent} shall comply with the terms of 19 NYCRR Part 144, as amended. A failure to comply with 19 NYCRR Part 144, where applicable, may be deemed a material breach of this Agreement constituting a sufficient basis for suspension or termination for cause. The terms of 19 NYCRR Part 144, as amended, are incorporated herein by reference.

Minority and Women Owned Business Participation:

Article 15-A of the New York State Executive Law, as amended, authorized the creation of a Division of Minority and Women's Business Development to promote employment and business opportunities on state contracts for minorities and women. This law supersedes any other provision in state law authorizing or requiring an equal employment opportunity program or a program for securing participation by minority and women-owned business enterprises. Under this statute, State agencies are charged with establishing business participation goals for minorities and women. The Department of

State administers a Minority and Women-owned Business Enterprises (MWBE) Program as mandated by Article 15-A.

1. General Provisions

a. The Department of State is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or **(2) in excess of \$100,000 for real property renovations and construction.**

b. The Contractor to the subject contract (the "Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Department of State (the "Agency"), to fully comply and cooperate with the Agency in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws. Contractor agrees that the terms "MWBE," "MBE" and "WBE" as used herein, shall mean those MBE or WBE firms certified as such by the State pursuant to NY Executive Law Article 15-A and listed in the directory of New York State Certified MWBEs found at the following internet address: <http://www.esd.ny.gov/mwbe.html>.

c. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section M (6) of this Attachment or enforcement proceedings as allowed by the Contract.

2. Contract Goals

a. For purposes of this Contract, the Agency hereby establishes an overall goal of 20% for Minority and Women-Owned Business Enterprises ("MWBE") participation, 10% for Minority-Owned Business Enterprises ("MBE") participation and 10% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs).

b. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section 2(a) hereof, Contractor should reference the directory of New York State Certified MWBEs found at the following internet address: <http://www.esd.ny.gov/mwbe.html>.

c. Additionally, Contractor is encouraged to contact the Division of Minority and Women's Business Development (518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

d. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the Agency for liquidated or other appropriate damages, as set forth herein.

#### Attachment A-1 - Program Specific Terms and Conditions

### 3. Equal Employment Opportunity (EEO)

a. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

b. Contractor shall comply with the following provisions of Article 15-A:

1) Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

2) The Contractor shall submit an EEO policy statement to the Agency within seventy two (72) hours after the date of the notice by Agency to award the Contract to the Contractor.

3) If Contractor or Subcontractor does not have an existing EEO policy statement, the Agency may provide the Contractor or Subcontractor a model statement (see Form A - Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).

4) The Contractor's EEO policy statement shall include the following language:

a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

b) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

c) The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a

written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

d) The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

c. Form B - Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. If the total expenditure of this contract is in excess of \$250,000, Contractor shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

d. Form C - Workforce Employment Utilization Report ("Workforce Report")

1) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the Agency of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

2) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

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

4. MWBE Utilization Plan

- a. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan (Form D) either prior to, or at the time of, the execution of the contract.
- b. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section M (2)(a) of this Attachment.
- c. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, Agency shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

5. Waivers

- a. For Waiver Requests Contractor should use Form E - Waiver Request.
- b. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Agency shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- c. If the Agency, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the Agency may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

6. Liquidated Damages - MWBE Participation

- a. Where Agency determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the Agency liquidated damages.
- b. Such liquidated damages shall be calculated as an amount equaling the difference between:
  - 1) All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
  - 2) All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- c. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Agency, Contractor shall pay such liquidated