

**BATTERY PARK CITY AUTHORITY**

**Common Request for Proposals for**

**Bond Underwriters and Financial Advisors**

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**Application Form (attach this form to your proposal)**

POSITION(S) APPLYING FOR (check all that may apply):

**Senior Managing Underwriter**

**Co-Managing Underwriter**

**Financial Advisor**

NOTES:

- 1) If you are applying to serve as Senior Managing Underwriter and are not selected, your proposal will automatically be considered for the position of Co-Managing Underwriter.
- 2) Financial Advisors shall not be permitted to participate, directly or indirectly, in any manner in the purchase of any bonds relating to the debt offering, any projects financed through the debt offering or for which Financial Advisor services are otherwise provided.

**DATE OF APPLICATION:** \_\_\_\_\_

**GENERAL INFORMATION ON FIRM:**

Legal Name of Firm: \_\_\_\_\_

Firm's Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Firm's Website Address: \_\_\_\_\_

Firm's Main Telephone Number (including area code): \_\_\_\_\_

Federal Tax ID Number: \_\_\_\_\_

FINRA and/or SEC Registration Number: \_\_\_\_\_

M/WBE Registration Number (if applicable): \_\_\_\_\_

**MAIN CONTACT INFORMATION FOR THIS PROPOSAL:**

Please list the individual that will be the main contact regarding this proposal:

Contact Name: \_\_\_\_\_

Contact Telephone Number (including area code): \_\_\_\_\_

Contact E-mail Address: \_\_\_\_\_

Contact Facsimile Number (including area code): \_\_\_\_\_

**PRIMARY STAFF CONTACT(S)**

Identify the principals and the key personnel who will provide services relating to the Battery Park City Authority for each position for which you are submitting a Proposal.

**REQUESTED POSITION: SENIOR MANAGING UNDERWRITER**

*Contact #1*

Contact Name: \_\_\_\_\_

Contact Telephone Number (including area code): \_\_\_\_\_

Contact E-mail Address: \_\_\_\_\_

Contact Facsimile Number (including area code): \_\_\_\_\_

*Contact #2*

Contact Name: \_\_\_\_\_

Contact Telephone Number (including area code): \_\_\_\_\_

Contact E-mail Address: \_\_\_\_\_

Contact Facsimile Number (including area code): \_\_\_\_\_

## **I. GENERAL INFORMATION**

The Battery Park City Authority d/b/a Hugh L. Carey Battery Park City Authority (“BPCA”) is seeking and accepting proposals from qualified firms, registered with FINRA and/or the SEC, that wish to be considered to serve as 1) Senior Managing Underwriter, 2) Co-Managing Underwriter, or 3) Financial Advisor in connection with the issuance of revenue bonds during the term of this engagement.

Minority-Owned Business Enterprises (“MBE”) and Women-Owned Business Enterprises (“WBE”) are encouraged to submit Proposals.

This Request for Proposals, the attachments and any additional information submitted herewith, (collectively, the “RFP”) does not obligate BPCA to complete the selection and contract award process. BPCA reserves the right: 1) to accept or reject any and all Proposals; 2) to request additional information from any or all Proposers to assist BPCA in its evaluation process; 3) to amend or withdraw this RFP prior to the announcement of the selected firm; and 4) to award the proposed services, in whole or in part, to one or more firms. In case of an amendment to the RFP, all Proposers will be provided with a copy of any such amendment(s) and will be afforded the opportunity to revise their Proposals in response to the RFP amendment.

### **A. Corporation Description**

BPCA is a public benefit corporation created in 1968 under the laws of the State of New York (Battery Park City Authority Act, Article 8, Title 12 of the Public Authorities Law (the “Act”)) for the purpose of financing, developing, constructing, maintaining, and operating a planned community development of the Battery Park City site as a mixed commercial and residential community.

Under the Act, BPCA has the following powers, among others: to borrow money and to issue negotiable bonds, notes or other obligations and to provide for the rights of the holders thereof; to acquire, lease, hold, mortgage and dispose of real property and personal property or any interest therein for its corporate purposes; to construct, improve, enlarge, operate and maintain Battery Park City; to make bylaws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of Battery Park City; to make contracts and to execute all necessary or convenient instruments, including leases and subleases; to accept grants, loans and contributions from the United States, or the State of New York or the City of New York (the “City”), or any agency or instrumentality of any of them, or from any other source and to expend the proceeds for any corporate purpose; to fix, establish and collect rates, rentals, fees and other charges; and to do all things necessary or convenient to carry out the powers expressly granted by the Act. BPCA has no taxing power.

Battery Park City consists of approximately 92 acres of landfill created, owned, and operated by BPCA. Battery Park City’s plan of development included approximately 35 acres of parkland and open spaces and provides for the construction, by private developers, of approximately 10.2 million square

feet of office space, a 500,000-square-foot commodities trading facility, retail space, a marina, two hotels, a multiplex cinema, museums, three public schools, a community center, a public library, four not-for profit condos owned by the Authority and approximately 8,600 residential units. Ground rents, payments in lieu of taxes, and other lease payments are received under the ground leases, all expiring in 2069. All sites in Battery Park City have been designated for development, and construction is substantially complete.

To obtain a copy of BPCA's most recently completed audited financial statements for fiscal year ended October 31, 2012 and the 2003 and 2009 BPCA's Official Statements, please visit BPCA's official website at [www.bpca.ny.gov](http://www.bpca.ny.gov). The audited financial statements, Official Statements and related reports found on BPCA's website will provide you with an overview of BPCA's outstanding debt, lease revenues, operating expenses and cash flow.

### **B. Purpose**

BPCA is seeking and accepting proposals from qualified firms, registered with FINRA and/or the SEC, that wish to be considered to serve as 1) Senior or Co-Managing Underwriters, or 2) Financial Advisors in connection with the proposed issuance of bonds. We expect to structure the issue to accomplish the following objectives:

1. Refinance/restructure current debt outstanding and secure financing for Three-Year Capital Program – approximately \$110 million.
2. Achieve/maintain credit ratings and low cost of capital.
3. Matching of debt structure with asset life with efficient, flexible lien structure.

BPCA expects to access the bond markets as early as possible in the last fiscal quarter of the current fiscal year ending October 31, 2013.

## **II. SERVICES REQUIRED**

### **A. Specific Scope of Services**

The successful firm(s) will:

1. As **Senior Managing Underwriter**, provide services that include, but are not limited to, the following:
  - a. Structure, size and develop the overall marketing strategy for the bond issues;
  - b. Prepare cash flows for BPCA's debt service coverage analyses;
  - c. Prepare financing schedules, calendar of events, and closing memos;
  - d. Prepare pricing memos discussing market conditions (including comparables) and preliminary pricing scales, syndicate rules, syndicate price views and marketing compensation;

- e. Manage the underwriting team and the underwriting process and provide advice on market timing and investor demand;
  - f. Conduct bond sale conference calls and coordinate information with the syndicate group;
  - g. Market and distribute bonds;
  - h. Commit capital as required in underwriting BPCA's bonds;
  - i. Provide post-closing analysis of debt issuances including pricing, orders, allotments, designations, etc.;
  - j. Provide support for the bonds in the secondary market;
  - k. Undertake certain market-related analysis of various financial products as may be requested by BPCA;
  - l. Coordinate informational meetings with institutional investors, credit analysts, financial advisors and other public presentations as requested by BPCA;
  - m. Participate in discussions with BPCA, upon the occurrence of any unexpected events and assist BPCA in developing strategic and tactical responses; and
  - n. Other services as requested from time to time.
2. As **Co-Managing Underwriter**, provide services that include, but are not limited to, the following:
- a. Coordinate with and assist the Senior Managing Underwriter in marketing and distribution of bonds;
  - b. Assist the Senior Managing Underwriter in analyzing market conditions and development of the marketing plan for the bonds;
  - c. Commit capital as required in underwriting BPCA's bonds;
  - d. Provide support for the bonds in the primary and secondary market; and
  - e. Other services as requested from time to time.
3. As **Financial Advisor**, provide services that include, but are not limited to, the following:
- a. Assist BPCA to develop a plan of finance and prepare the financing schedule;
  - b. Analyze and report to BPCA on the advantages and disadvantages of different financing proposals;
  - c. Work with BPCA's bond counsel and financing team in recommending size, structure, specific terms and conditions of the offering;
  - d. Manage competitive or negotiated sales process, including, but not limited to, the following: arrange for advertising and pre-marketing of the bonds; represent BPCA at the bid opening for a public sale and analyze the bids; identify the most favorable bid, and make a recommendation as to awarding of the bid; act as BPCA's agent if bid negotiations are required; and after the bid is awarded, prepare an actual debt service table based on accepted coupon rates;
  - e. In the event of a negotiated offering, assist BPCA in negotiating appropriate terms, reviewing spreads, comparing deals, analyzing market levels, and clarifying syndicate roles with selected underwriter(s);
  - f. For negotiated or competitively priced transactions, structure, advise and suggest alternatives to minimize overall debt service costs;

- g. Assist in the selection of the financing team, including preparing a list of services required of underwriters, trustee, verification agents and other professionals, as needed;
- h. Assist in the drafting, review and dissemination of relevant bond documents, including, but not limited to, a preliminary official statement, a final official statement, a notice of sale, a bid proposal form, a bond resolution, and closing memoranda;
- i. Obtain bids for credit enhancement and recommend efficient utilization of available credit enhancement, including, but not limited to, bank facilities and bond insurance;
- j. Coordinate printing and posting of preliminary and final official statements;
- k. Assist in preparation of materials or presentations, discussions, meetings or other communications with rating agencies, insurers, credit enhancers and investors;
- l. Advise on timing of the sale and issuance of the bonds;
- m. Confirm all bids and identify the low bidder;
- n. Cause the furnishing, by mail or otherwise, of such disclosure materials as deemed appropriate to market bonds;
- o. Develop marketing programs, including investor conferences and rating agency presentations;
- p. Provide background or research materials as requested;
- q. Provide advice on the investment of bond proceeds pending expenditure;
- r. Assess BPCA-held derivative instruments to determine the need to terminate such agreements and assist in the valuation of the termination;
- s. Attend all drafting sessions and working group meetings; and
- t. Provide such other services in connection with the financing as may be requested from time to time.

**B. Additional Services: Senior Managing Underwriter(s)**

**The overall services of BPCA's Senior Managing Underwriter(s) shall include, but not be limited to, the following:**

- 1. Providing the most effective structuring, pricing and marketing of BPCA's bonds to achieve the lowest cost of capital;
- 2. Identifying refunding opportunities for BPCA to reduce interest costs of its portfolios;
- 3. Pursuing ways for BPCA to reduce interest rate exposure as well as to mitigate other risks commonly associated with swap strategies and BPCA's auction rates securities outstanding and continuing to maximize interest rate savings;
- 4. Identifying new strategies and initiatives which could be utilized by BPCA to further enhance BPCA's operation and the performance of BPCA's operations as well as its overall goals;
- 5. Supporting BPCA bonds in the secondary market; and
- 6. Providing other related services as requested by BPCA from time to time.

**III. KEY DATES, CONTRACT TERM AND MINIMUM QUALIFICATIONS**

**A. Key Dates**



The following is a list of key dates, up to and including the date Proposals are due to be submitted, which is subject to change at BPCA's discretion:

- Request for Proposals issued: **March 6, 2013**
- Deadline to submit questions to BPCA: **March 20, 2013** by 4:00 p.m. (by email only)
- All questions regarding this RFP should be submitted in writing via email to the "Designated Contact": **Linda Soriero** of BPCA, at [linda.soriero@bpca.ny.gov](mailto:linda.soriero@bpca.ny.gov).
- Deadline for the Organization's response to substantive questions: **March 21, 2013** (by email)
- **DUE DATE FOR RESPONSES TO RFP: April 05, 2013 by 3:00 p.m. (the "Due Date")**
- Selection and notification of successful Proposer: To be determined.
- Contract start date: To be determined.

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

It is anticipated that the term of the contract awarded pursuant to this RFP (the "Contract") will be 1 year. BPCA reserves the right to terminate the Contract at any time, with or without cause, upon thirty (30) days written notice. BPCA reserves the right to terminate the Contract at any time, without prior notice, if the Principal identified in the Proposal as the Lead Principal for this engagement ceases to be employed by the selected Proposer.

#### **C. Minimum Qualification Requirements**

The following are the Minimum Qualification Requirements for this RFP. **Proposals that fail to comply with these requirements will be rejected.**

- 1) The firm must have an office in New York State (a New York City office is preferred); and
- 2) The firm must have demonstrated experience with municipal issuers of tax-exempt and taxable bonds and must meet all the terms and conditions identified in this RFP.
- 3) Proposers must be registered broker-dealers and provide BPCA with its FINRA and/or SEC Registration Number at the time of submission of its response to the RFP.

### **IV. GENERAL REQUIREMENTS**

#### **A. Questions regarding MBE/WBE participation, joint ventures and sub-contracting goals**

Please see **Exhibit A** (attached) for contractor requirements and procedures for business participation opportunities for New York State certified MBEs/WBEs and equal employment opportunities for minority group members and women.

For questions relating to MBE/WBE participation, joint ventures and sub-contracting goals ONLY, please contact “MBE/WBE Designated Contact” Mr. Anthony Peterson at 212.417.2337.

### **B. Restricted Period**

Applicants are restricted from making contact with anyone other than the Designated Contact or MBE/WBE Designated Contact specified above during the period from the date of publication of the notice of this RFP in the New York State Contract Reporter through approval of the Contract by BPCA (the “Restricted Period”). Employees of BPCA are required to record certain contacts during the Restricted Period, including, but not limited to, any oral, written or electronic communication with a governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence BPCA conduct or decision regarding the governmental procurement, and to make a determination of responsibility based, in part, upon any such contact. Failure to abide by this process may result in a finding that the firm is a non-responsive Proposer.

### **C. Submission of Proposals**

#### **Proposals are due no later than 3:00 p.m. on April 05, 2013.**

Proposers must submit ten (10) paper copies of their Proposals and one (1) electronic CD-Rom copy in a sealed package clearly marked “**Proposal Enclosed – Bond Underwriters and Financial Advisors**” to the Designated Contact **by messenger, overnight courier or certified mail** to the following address:

Hugh L. Carey Battery Park City Authority  
“**RFP for Bond Underwriters and Financial Advisors**”  
One World Financial Center, 24<sup>th</sup> Floor  
New York, NY 10281-1097  
Attention: Ms. Linda Soriero  
Finance Administrative Assistant

BPCA is not responsible for any internal or external delivery delays which may cause any Proposal to arrive beyond the stated Due Date. To be considered, Proposals must arrive at the time and place specified herein and be time stamped by BPCA’s time stamp prior to the Due Date. Please leave ample time for building security, as late Proposals will not be accepted. Proposals submitted by fax or electronic transmission will NOT be accepted. A Proposer may, after submitting a Proposal, amend its Proposal by submitting a second, amended Proposal, clearly labeled “**Amended Proposal Enclosed - Bond Underwriters and Financial Advisors**” as long as the amended Proposal is submitted by the Due Date.

Public access to Proposals shall be governed by the relevant provisions of the Freedom of Information Law, Article 6 of the New York State Public Officers Law, and regulations adopted pursuant thereto.

#### **D. Mandatory Forms**

By the Due Date, Proposers must complete and include with their Proposal all “Mandatory Forms,” which can be found at the following URL address:

[http://www.batteryparkcity.org/pdf\\_n/Mandatory\\_Forms\\_Packet.pdf](http://www.batteryparkcity.org/pdf_n/Mandatory_Forms_Packet.pdf).

These Mandatory Forms include the following:

- 1) NYS Standard Vendor Responsibility Questionnaire – **Submit with the Cost Proposal (as described below), one (1) original unbound set of a completed NYS Standard Vendor Responsibility Questionnaire with original ink signatures. Do not include the Standard Vendor Responsibility Questionnaire in the bound copies of the Cost Proposal.** The NYS Standard Vendor Responsibility Questionnaire must be notarized and signed by the individual(s) authorized to bind the firm contractually. Indicate the title or position that the signer holds within the firm.
- 2) State Finance Law § 139 Form 1 – **one original unbound completed SFL 139 Form 1: Professional’s Certifications Pursuant to SFL § 139-j and § 139-k with original signature.** State Finance Law § 139 Forms 1 must be signed by the individual(s) authorized to bind the firm contractually.
- 3) W-9 form.
- 4) Statement of Non-Collusion.
- 5) Diversity Forms.

### **VI. PROPOSAL FORMAT AND CONTENTS**

#### **A. Proposal Format**

The Proposal must be printed on 8½” x 11” paper. Pages should be numbered. The Proposal will be evaluated on the basis of its content, not length and should be limited to no more than ten (10) pages, exclusive of the Transmittal Letter and the Appendices listed below. BPCA reserves the right to disqualify Proposals that fail to comply with any of these instructions.

#### **B. Proposal Content**

A Proposal in response to this RFP must include the following sections in the order listed:

- 1) Transmittal Letter, as follows:

The Proposal must include a signed Transmittal Letter from a person within the firm who is authorized to bind the firm, preferably the Lead Principal. **Transmittal Letters must be signed. Proposals with unsigned Transmittal Letters will be rejected.**

**The Transmittal Letter must include a representation by the Proposer that, except as disclosed in the Proposal, no officer or employee of the Proposer is directly or indirectly a party to or in any other manner interested financially or otherwise in this RFP.**

- 2) Executive Summary.
- 3) Firm's discussion of its understanding of the Services Required (see Section II).
- 4) Firm's Responses to the RFP Questions and RFP Additional Information Request, set forth below.
- 5) Firm's Cost Proposal, as described below.

### **C. RFP Questions**

*Please limit your response to 5 pages (excluding resumes). Please respond only to those questions or sections of questions that pertain to the position you are seeking.*

#### **■ Qualifications**

1. Briefly describe your firm's qualifications to serve as a Senior Managing Underwriter, Co-Managing Underwriter or Financial Advisor for a BPCA bond issuance. Your response should include:
  - a. a brief description of your firm and its organizational structure including a list of business lines in which your firm engages in addition to public finance;
  - b. the ownership structure of the firm and, if applicable, your firm's long term ratings for 2011 and 2012, and a description of any events that may have caused any of the rating agencies to change their rating or outlook;
  - c. the firm's capital structure and leveraging practices, including total capital, equity capital, uncommitted excess net capital, underwriting capacity and your firm's most recent audited financial statements and FOCUS Report; (*Underwriters Only*) and
  - d. an explanation of any short term financing currently used, including credit lines to support underwritings. (*Underwriters Only*)
2. Discuss your firm's commitment to public finance. Have there been any changes in the firm's municipal finance department staffing or staffing policy in 2011 and 2012? If so, please discuss

how these changes may affect coverage of BPCA. Include the number of staff members assigned to investment banking, underwriting, sales, and trading during this period. Also include resumes of all pertinent staff and describe how you would utilize your firm's capital and human resources to serve BPCA.

3. Discuss your firm's capital commitment to public finance (*Underwriters Only*). Your response should include:
  - a. How much uncommitted excess net capital is allocated to public finance in the current year?
  - b. How much uncommitted excess net capital was allocated to support public finance operations in 2011 and 2012?
  - c. Please briefly discuss several examples of transactions and circumstances where your firm used its capital to provide critical support for the sale and distribution of bonds during 2011 and 2012.
  - d. Please provide a list of the three largest positions your firm has taken into inventory during the last six months when your firm was senior underwriting manager on a transaction. Please include in your response the total par amount of the issue, the total amount of unsold bonds and the type of bonds (e.g. tax supported, appropriation, revenue).
4. BPCA is committed to increasing the utilization of MBE/WBE firms, including underwriters and financial advisors. Describe your firm's diversity program and activities. Please share any ideas you may have for MBE/WBE joint venture partnerships or other initiatives which would increase BPCA utilization.
5. Discuss your firm's presence in New York State including any offices maintained in the state, the number of staff employed in the state and the number of staff covering BPCA who are employed in the state. Include in your discussion how your firm's current New York State footprint has changed in 2010 and 2011.
6. Provide BPCA with a list and description of any proceedings known of, or pending by, any governmental authority against your firm, including but not limited to, any pending or anticipated proceedings, rule or order relating to a violation or alleged violation by your firm of any federal or state statute or regulation pertaining to the underwriting or sale of securities, the provision of investment advisory services or the issuance of securities. Provide a list of all sanctions and/or fines imposed on your firm during the last 24 months in connection with any proceeding of the type described in the preceding sentence. Also provide BPCA with a list and description of any pending or anticipated proceedings by private parties against your firm (individually or in the aggregate) that your firm has determined may have a material adverse impact on the current financial status or operations of the firm.
7. Disclose any existing or contemplated relationship with any other person or entity, including relationships with any parent, subsidiary or BPCA Board members and staff, which would

constitute an actual or potential conflict of interest in connection with the rendering of services detailed in this RFP. If a conflict does or might exist, please describe how your firm would resolve the conflict.

8. Please disclose any professional or personal financial interest which could be a possible conflict of interest in representing BPCA and any arrangements your firm may have to derive additional compensation from various investment and reinvestment products, including financial contracts.

■ **Performance**

***Please limit your response to 5 pages. For firms seeking Senior Managing Underwriter or Co-Managing Underwriter positions, please respond to all questions noted below. FINANCIAL ADVISORS: PLEASE RESPOND ONLY TO QUESTIONS 1 AND 4.***

1. List your firm's and Lead Principal's combined experience as Senior Managing Underwriter, Co-Managing Underwriter, Financial Advisor for revenue bonds, or comparable financing programs in other jurisdictions in 2011 and 2012. Provide the following information where applicable for each financing (information should be provided in tabular form in an appendix which will not be counted against page limit):
  - a. Name of issuer
  - b. Size and title of issue
  - c. Date of issue
  - d. Rating
  - e. Role of firm (senior manager, co-manager, financial advisor or swap provider)
  - f. Total volume of sales compared to orders placed (e.g., actual "going away" orders)
  - g. Role in an investor education presentation, if any
  - h. Investment banker and underwriter responsible at your firm
  - i. Financial advisor to issuer, if applicable
  - j. Method and type of sale (negotiated or competitive, variable or fixed, new money or refunding)

For each financing mentioned, describe any unique contribution your firm or principals have made to the transaction and how the issuer benefited. Elaborate on any innovations developed by your firm or principals or any special marketing efforts undertaken by the firm for such financings. Limit your response to three examples.

2. If your firm has served as a senior managing underwriter, a co-managing underwriter or selling group member in BPCA's management team, discuss your sales performance, in particular, your orders placed, allotments received and/or distributed, and designations. Also please describe the efforts of your firm to support BPCA's bond issues in the secondary market. If your firm has not served as senior managing underwriter or a co-managing underwriter in BPCA's management team, discuss the issues noted above with respect to similar credits for other issuers and how these experiences relate to BPCA's previous bond issuances.

3. Discuss the firm's bond distribution capabilities, both institutional and retail, in detail. Include any significant increases or decreases in the number of employees devoted specifically to distribution in 2011 and 2012 or any planned in the near future. Please describe how your firm's bond distribution capabilities have served BPCA or similar credits for other issuers in that period.
4. Discuss any recommendations you have regarding how BPCA markets and sells its bonds. Discuss how BPCA can expand its retail marketing efforts. Also discuss any strategies you might have to expand BPCA's institutional distributions. Recommend specific marketing approaches BPCA should employ in the short and long term to distinguish its bonds from other issuers.

■ **Structure and size bond issue (*Underwriters Only*)**

Assuming BPCA will need \$110 million in new money for general infrastructure, please structure and size a bond issue which includes any refinancing or restructuring opportunities of BPCA outstanding debt.

■ **Marketing Strategy**

Describe how best to conduct a negotiated sale given current market conditions and discuss issues which should be addressed in developing a marketing strategy for BPCA's financing. Your discussion should include, but not be limited to, how you would deploy your retail and institutional sales distribution capabilities; a description of the investor base you feel should be targeted; strategies on how to reach those investors and the use of bond insurance and other credit enhancements in today's market. **Please limit your response to 1 page.**

■ **Negotiated Bond Experience**

For each of the calendar years 2011 and 2012 and in tabular format, set forth a chronological listing of municipal negotiated bond transactions for which the firm has served as Senior Managing Underwriter or Co-Managing Underwriter. List the date of issue, issue name, issue size and managing status. **There is no page limit on this response.**

**D. RFP Additional Information Request**

1) Appendices:

Include professional biographies for all Principals and senior level staff listed in your Proposal.

2) References:

Please provide at least three client (3) references for whom your firm has performed similar work to that requested in this RFP.

3) Conflicts of Interest:

Identify any existing or potential conflict of interest, or any relationships that might be perceived to be a conflict of interest that may affect or involve transactions involving BPCA.

- 4) Describe any pending, concluded or threatened litigation, administrative proceedings or federal or state investigations or audits, subpoenas or other information requests of or involving your firm or the owners, principals or employees thereof during the period beginning January 1, 2010 to the present. Describe the nature and status of the matter and the resolution, if any.
- 5) List any sanctions or penalties brought against your firm or any of its personnel (including suspension or disbarment) by any regulatory or licensing agencies. Include a description of the reasons for the sanction or penalties and whether such sanctions or penalties are subject to appeal.
- 6) Provide the last two MSRB G37 reports your firm has filed and if applicable, form G38t.

**E. Cost Proposal****■ Underwriters**

Indicate your proposed spread using the format below. Management fee, Underwriting fee, Underwriter's expenses and takedown will be negotiated at the time of pricing. Please provide a detailed list of items included in Underwriter's expenses. State the fees in dollars per \$1,000.

Management Fee	\$
Underwriting Fee	\$
Underwriter's Expenses (Maximum)	\$
Takedown (Maximum)	\$
Total Underwriter's Spread	\$

**■ Financial Advisors**

Each "Cost Proposal" must state a maximum annual fee for the services contemplated herein for the next year. Please indicate the firm's willingness to provide the foregoing services at the maximum hourly billing rate. State whether the firm would be willing to agree to a cap on fees (irrespective of whether the fees based on the number of hours required exceeds the cap) for this financing transaction.



## **VII. THE EVALUATION PROCESS**

### **A. Objectives**

The primary objective of the evaluation process is to select a firm:

- That demonstrates a thorough understanding of the scope of the engagement and the specific responsibilities which it entails;
- Possesses adequate resources to handle assigned responsibilities and to handle unforeseen circumstances that may arise;
- Assigns highly skilled, experienced, diligent, responsible and professional personnel to perform the required services;
- Maintains high ethical standards and has an unblemished reputation; and
- Has no conflict of interest between its representation of BPCA and that of other clients.

The selection process will begin with the review and evaluation of each of the written Proposals. The purpose of this evaluation process is twofold: (1) to examine the responses for compliance with this RFP and (2) to identify the complying firms that have the highest probability of satisfactorily performing the Services Required at a reasonable cost to BPCA. The evaluation process will be conducted in a comprehensive and impartial manner. The evaluation process will be conducted by a committee of BPCA's employees selected by BPCA (the "Committee"). The Committee will evaluate the Proposals based upon the evaluation criteria for selection set forth below.

BPCA reserves the right to reject and return unopened to the Proposer any Proposal received after the Due Date. All timely submitted Proposals will be reviewed to determine if they contain all required submittals specified herein. Incomplete Proposals may be rejected.

### **B. Interviews**

BPCA reserves the right to determine whether interviews will be necessary for any or all of the Proposers. The purpose of the interview is to further document a Proposer's ability to provide the Services Required, and to impart to the Committee an understanding of how specific services will be furnished. The proposed Lead Principal, as well all other key personnel proposed to provide the services must be present and participate in the interview. The firm will be evaluated on the basis of whether the interview substantiates the characteristics and attributes claimed by the Proposer in its written response to this RFP and any other information requested by the Committee prior to the interview.

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

Selection will be based upon the following criteria:

- 1) Fees: 30%

- 2) Demonstrate relevant experience and knowledge of BPCA credit, proposal for refinancing, restructuring and issuance of \$110 million of new money bonds and similar assignments of size, nature and scope: 30%
- 3) Firm resources, organizational capability, interview feedback, quality/experience of assigned staff: 30%
- 4) Proposed MBE/WBE utilization plan (the “Utilization Plan”) and/or Firm MBE/WBE status: 10%

**D. Basis for Contract Award**

The Contract will be awarded to the highest technically rated Proposer whose Proposal is determined to be responsive and in the best interests of BPCA, subject to a determination that the Cost Proposal is fair and reasonable.

**VIII. NON-COLLUSION**

By submitting a Proposal, Proposers hereby warrant and represent that any ensuing Contract has not been solicited or secured directly or indirectly in a manner contrary to the laws of the State of New York, and that said laws have not been violated and shall not be violated as they relate to the procurement or the performance of the Contract by any conduct, including the paying or giving of any fee, commission, compensation, gift, or gratuity or consideration of any kind, directly or indirectly, to any member of the board of directors, employee, officer or official of BPCA.

**EXHIBIT A****CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MBEs/WBEs AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN**

Pursuant to New York State Executive Law Article 15-A, BPCA recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified MBE/WBEs and the employment of minority group members and women in the performance of BPCA contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title “The State of Minority and Women-Owned Business Enterprises: Evidence from New York” (the “Disparity Study”). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that BPCA establish goals for maximum feasible participation of New York State Certified MBEs/WBEs and the employment of minority groups members and women in the performance of New York State contracts.

**Business Participation Opportunities for MBE/WBEs**

For purposes of this solicitation, BPCA hereby establishes an overall goal of 20% for MBE/WBE participation, 10% for MBE participation and 10% for WBE participation (based on the current availability of qualified MBEs and WBEs). A contractor (“Contractor”) on the Contract must document good faith efforts to provide meaningful participation by MBE/WBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that BPCA may withhold payment pending receipt of the required MBE/WBE documentation. The directory of New York State Certified MBE/WBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html>.

For guidance on how BPCA will determine a Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8.

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

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MBE/WBEs had the Contractor achieved the contractual MBE/WBE goals; and (2) all sums actually paid to MBEs/WBEs for work performed or materials supplied under the Contract.

By submitting a bid or Proposal, a Proposer agrees to submit the following documents and information as evidence of compliance with the foregoing:

A. Proposers are required to submit a Utilization Plan with their bid or Proposal. Any modifications or changes to the Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised Utilization Plan and submitted to BPCA.

B. BPCA will review the submitted Utilization Plan and advise the Proposer of BPCA's acceptance or issue a notice of deficiency within 30 days of receipt.

C. If a notice of deficiency is issued, Proposer agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to BPCA, at the address specified in this RFP, or by facsimile at 212-417-2279 a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by BPCA to be inadequate, BPCA shall notify the Proposer and direct the Proposer to submit, within five (5) business days, a request for a partial or total waiver of MBE/WBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or Proposal.

D. BPCA may disqualify a Proposer as being non-responsive under the following circumstances:

- 1) If a Proposer fails to submit a Utilization Plan;
- 2) If a Proposer fails to submit a written remedy to a notice of deficiency;
- 3) If a Proposer fails to submit a request for waiver; or
- 4) If BPCA determines that the Proposer has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE/WBE identified within its Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to the Contract award may be made at any time during the term of the Contract to BPCA, but must be made no later than prior to the submission of a request for final payment on the Contract.

Contractors are required to submit a Contractor's MBE/WBE Contractor Compliance & Payment Report to BPCA on a monthly basis over the term of the Contract documenting the progress made toward achievement of the MBE/WBE goals of the Contract.

### **Equal Employment Opportunity Requirements**

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

Proposer further agrees, where applicable, to submit with the Proposal, a staffing plan identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to the Organization a workforce utilization report identifying the workforce actually utilized on the Contract, if known.

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

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

For questions on MBE/WBE participation, joint ventures and sub-contracting goals ONLY, please contact Mr. Anthony Peterson at 212.417.2337.