Wildlife Conservation Society

REQUEST FOR PROPOSALS

Architectural/Engineering Services
New York Aquarium OLMS Building Roof/Window Replacements & Playquarium Building Selective Roof Replacements
November 22, 2023

PROPOSAL DEADLINE: December 20, 2023
PROPOSALS DELIVERED TO: Wildlife Conservation Society

INVITATION
The Wildlife Conservation Society (WCS) is seeking proposals from qualified architectural/engineering (A/E) firms to provide complete design and construction administration phase for roof and window replacements at two buildings at the New York Aquarium. This RFP provides detailed information for proposers on the project requirements and the desired qualifications of proposers, project information, drawings, a site plan, existing photographs, and a Scope of Work.

BACKGROUND AND OBJECTIVES OF THE PROJECT
WCS is a not-for-profit organization dedicated to saving wildlife and wild lands through science, international conservation, education, and managing the world's largest system of urban wildlife parks.

The New York Aquarium is set on 14 acres of beach located at 602 Surf Ave, Brooklyn, NY. The Aquarium was founded in 1896 and joined WCS in 1907. Originally located in Battery Park and later the Lion House at the Bronx Zoo, the Aquarium has resided on Coney Island since 1957.

The goal of this project is to replace the roof and windows on the OLMS Building and replace select portions of the Playquarium building roof.

The OLMS Building was originally constructed in 1962 as lab and later renovated in the late 1990’s as primarily an administrative building. The roof was replaced as part of the renovation but the windows remain original to 1962. There is water under the existing roofing material and the majority of the windows leak severely and have little R-value.

The Playquarium Building was originally constructed in 1988 as Discovery Cove and later transformed to Explore the Shore. Post Hurricane Sandy, the exhibit theming was modified to the current Playquarium. The building has multiple layers and some of the lower roofs were replaced in 2003 but the rest of the roofs are original to the 1988 construction.

Project scope details are included in Appendix A, attached and made a part hereof.
The project is being funded by WCS and is subject to certain requirements and WCS policies as indicated below and in Appendices A “Project Description” and B “Insurance, Contract, and Regulatory Requirements.” Both WCS and the City are exempt from sales tax in certain states, including New York, and may be exempt in certain foreign jurisdictions.

PROPOSAL ADMINISTRATION
All requests for clarification and questions concerning this RFP must be submitted in writing no later than seven (7) days prior to the submission deadline via email to Dennis Ethier, Director Plant Engineering NYA, dethier@wcs.org with an electronic cc to bids@wcs.org. Indicate “OLMS Roof and Window Replacement & Playquarium Select Roof Replacements RFP” in the subject line. Responses, if determined appropriate by WCS, will be issued in writing to all known proposers.

If a Proposer identifies either (i) an additional element not included in this RFP, which in its judgment, would be essential to accomplish the intended objectives as articulated in this RFP or (ii) a task within the RFP that it believes could be modified or deleted without impacting the objectives of the RFP, the Proposer should raise the issue in a Request for Information (RFI). Responses to RFIs, including any resulting scope modifications, will be issued to all known proposers.

All proposals shall be submitted as an attached digital file to the submission email, including attachments, exhibits, or appendices. Emails shall be submitted to: Dennis Ethier, Director Plan Engineering NYA, (dethier@wcs.org), with a copy to bids@wcs.org.

An interview may be requested of any proposer, and key staff should be present at the interview. Such a request for an interview does not constitute a contract award.

Proposals must be received no later than 2:00 PM EST, December 20, 2023.

KEY DATES
Preproposal conference/site visit: 11.29.23: 11am at 602 Surf Ave, Brooklyn, NY 11224 (meet at Operations Office)
Last day to submit RFI questions: 12.12.23
Proposals due: 12.20.23
Possible Interviews of proposers: 1.4.24
Notice of selection: 1.29.24
SCOPE OF WORK AND DESIRED QUALIFICATIONS

GENERAL REQUIREMENTS

The selected proposer will be expected to do the following:

• Comply with all laws, rules, and regulations including Chapter C4 of the City’s Energy Conservation Code.
• Maintain insurance for itself and all subcontractors, in the types and amounts set forth in Appendix B, Insurance, Contract, and Regulatory Requirements, attached and made a part hereof;
• Hold all subcontracts, take full responsibility for subcontractors’ performance, and indemnify WCS from disputes and claims by subcontractors;
• Make any necessary filings to facilitate approvals and permits for construction;
• Provide a complete set of signed and sealed contract drawings for filing with the City Department of Buildings (DOB) where necessary;
• Provide all pertinent and required City DOB applications to close out, if applicable;
• Upon approval by WCS, retain and manage any specialty sub-contractor(s), e.g., electrical, code contractor/expeditor;
• Provide, if needed asbestos survey, special testing services, City DOB, and other City agency filing and signing off services as required;
• Provide reimbursable services estimate;
• Provide project schedule.

PROPOSAL CONTENT

Proposals should be clear and concise and should address in detail and with appropriate documentation each of the items listed below. Proposals that fail to do so may be disqualified as non-compliant. WCS may request clarification of any proposal during the evaluation process, but it is not bound to do so, and proposers should not assume they will have any further opportunity to clarify their proposals after the proposal’s due date.

Please submit, on or before the submission deadline, a proposal addressing the following items in the order listed:

A. Technical Qualifications
   1. Contact Information
      On a single cover sheet, please provide:
      1. The proposer's name.
      2. The proposer’s contact person.
      3. Contact information for the principal(s) or lead individual(s) who are anticipated to work on the project, including e-mail addresses, main telephone, fax, and mobile telephone numbers.
      4. Street address and web address of proposer.
5. Year proposer was established.
6. Size of the proposer.
7. List of proposed staff assigned to this project.
8. Signature of principal and date of the signature.

2. Project Approach
Provide a summary of the proposer’s understanding of the objectives of this RFP and a description of the methods to be used to achieve those objectives, including technical quality assurance and general management practices for comparable projects. Specifically include the following:
- Additional Services (identification list)
- Exclusions (if any)
- Assumptions and Clarifications

3. Qualifications
Provide detailed information that demonstrates the following:
- examples of relevant projects designed and completed by the consultant’s team;
- proficiency with projects of comparable size and complexity;
- expertise of key staff in relevant professional disciplines;
- financial capacity as indicated by sound credit history.

4. Staffing Plan
- List the principals and key employees who will carry out the work, including their experience with the same;
- Identify the proposed project manager and staff members. Include a resume of each key member of the project team, indicating that member’s role in the project and relevant experience;
- After awarding of the contract, substitutions of personnel will require the prior written consent of WCS;
- The Consultant is also to provide a list of major sub-consultants and references for similar projects. Firm profiles and project staff resumes for sub-consultants should be included. Any project information provided in support of such consultants must be provided in addition to references and project information related to the A/E firm.

5. Timetable/Schedule
Produce a draft schedule for all design phases that outlines critical milestones for the work. This schedule shall include all proposed meetings with the WCS team. Include a sufficient number of meetings to cover each phase adequately.

6. References
Provide examples of up to five (5) projects of similar size and scope, recently completed or in progress, with the following information for each:
- Client
• Description of the work
• Nature of the work
• Size and complexity of the project
• Construction value of the project
• Name of a contact person who can be contacted for a reference or site visit.

7. Solicitation Acknowledgement in the form attached as Appendix C.
B. Fee Proposal
Respondents must propose a lump-sum fee for executing the Project in its entirety, including overhead, profit, staff time, mobilization, material handling, and travel expenses.

The fee proposal shall be broken out according to the following major categories:

**Phase 1: Architectural / Engineering Services**
- a. Schematic Design/Design Development Phase $____________
- b. Construction Documents Phase $____________
- c. Bidding and Negotiation Phase $____________

Provide cost detail by firm and phase. Provide separate fee lines for proposed consultants and agencies such as LPC, PDC, and DPR reviews and approvals services also as a lump-sum fee (Add lines as necessary)

**Subtotal Fee for Phase 1:** $____________

**Phase 2: Construction Administration Services**

(Add lines if necessary)

**Subtotal Fee for Phase 2:** $____________

**Reimbursable Expenses** $____________
Provide cost details by firm and phase.

**Total Fee for both phases:** $____________

**Additional Required Fees:**
- Code Consulting / Expediting Services $____________
- Controlled Inspection Agency work $____________

(Add lines if necessary)

**Grand Total:** $____________

Fee proposals shall also include the following:
- Any conditions or provisions related to changes in the Scope of Work and exclusions.
- Hourly and per diem rates for additional work of similar nature that are not currently included in this RFP for each of the team members.
- Any other anticipated fees not included above.
- Additional Services (identification list)
• Exclusions (if any)
• Assumptions and Clarifications

GENERAL CONDITIONS OF PROPOSAL SUBMISSIONS
The following general conditions apply to all proposals submitted in response to any RFP issued by WCS.

• **Non-Binding:** The solicitation of proposals does not commit WCS to award a contract, and this RFP is not an offer to enter into a contract for the services described herein.

• **Proposal Materials and Costs:** WCS is not liable for any costs incurred in the preparation, submission, or negotiation of a response to its RFP or incurred for any other purpose in connection with the RFP. No materials submitted with this RFP will be returned.

• **Confidentiality:** All information and material contained in any WCS RFP or issued by WCS or any of its agents as part of any WCS RFP process is confidential and is the exclusive property of WCS.

• **Modifications:** As a condition of the award, WCS may request any proposer to make revisions, additions, or deletions to its proposal.

• **Subcontractors:** After awarding of the contract, WCS will have no obligation, financial or otherwise, to any subcontractor of the awardee. Nevertheless, any subcontract will be required to be subject to and consistent with the prime contract between WCS and the awardee, and WCS may require any subcontract to include specific terms and conditions.

• **Reserved Rights:** WCS, at any time in its sole discretion, may, without notice and without liability to any proposer or any other party, do any and all of the following:
  o Amend or withdraw this RFP;
  o Accept or reject any and all proposals received in response to this RFP;
  o Award the contract to a proposer other than the one offering the lowest fee;
  o Request additional materials and clarification or modification of any submitted proposal;
  o Extend the time for submission of all proposals after notification to all prospective proposers;
  o Terminate negotiations with a selected proposer and select another proposer;
  o Take such action as WCS deems appropriate if negotiations fail to result in a signed agreement within a reasonable amount of time;
  o Terminate or modify the solicitation and selection process at any time and re-issue the solicitation to whomever WCS deems appropriate.
INSURANCE REQUIREMENTS
The types and amounts of insurance required of the awardee are set forth in Appendix B, Insurance, Contract, and Regulatory Requirements, attached hereto and made a part hereof.

CONTRACT TERMS
The selected proposer will be expected to enter into a contract with WCS reflecting its proposal, this RFP, including any written questions and answers, the requirements for the performance of this project, the insurance requirements, and the WCS terms and conditions set forth in Appendix B.

CRITERIA FOR SELECTION
Selection Process:
- WCS will review and evaluate all proposals to determine each proposer's Technical Rating. This evaluation may include a request by WCS to interview proposers and visit their offices for purposes of clarifying their proposals.
- The proposer with the best combination of Technical Qualifications and Fee Proposal will be selected for the award. WCS may reject any and all proposals if, in its sole opinion, no proposal satisfies its criteria.

Technical Evaluation Criteria:
The Technical Proposal evaluation criteria and weight will be as follows:
- The A/E team's technical capability to provide the services (40%);
- Project related experience of the proposed staff (25%);
- Proposed methodology for executing the scope of work (20%);
- Client references (5%);
- Proposed fee (10%)
APPENDIX A
SCOPE OF WORK

Scope of Work

1. Schematic Design:

- The A/E team shall proceed with Schematic Design (SD) based on the program requirements. This shall include, but not be limited to, an accurate depiction of the space based on a verified program, overall dimensions, interior layout, material options, and proposed site plan and grades.

- A City building code analysis and the verification of existing conditions shall be completed at the commencement of this work.

- Coordinated review sets shall be submitted at 50% and 100% SD milestones during this phase.

- The 100% SD submission shall have all aspects of the design established, including finished layouts, final dimensions, materials, aesthetics, utility needs and layouts, graphic building signage, location, and installation concepts as well as the final site plan.

- A 100% SD cost estimate shall be developed to assist WCS in finalizing the Program for the project. The cost estimate shall take into account existing market conditions, escalation, a 20% construction contingency, and provide value-engineering options that ensure the objectives of the project are met.

- Outline specifications shall be 100% complete at this phase.

2. Design Development:

- The A/E team shall proceed with Design Development (DD) based on the finalized program and the selected and approved Schematic Design. Verification of existing conditions must be completed at the commencement of this work. Coordinated review sets shall be submitted at 50% and 100% completion during this phase.

- At 50% Design Development completion, the A/E team shall have developed the design showing the interior layout and determined material selections for all interior finishes for review. Samples of all relevant building materials shall be supplied to WCS at this time for approval. 50% DD Project specifications shall be provided at this time. For this project, interior layout pertains to any areas that would need to be protected/cordoned off from staff or public access to facilitate the roof work above.
• The 100% DD submission shall have all aspects of the design established, including finished layouts, final dimensions, materials, aesthetics, utility needs and layouts, graphic building signage, location, and installation concepts as well as the final site plan.

• The 100% DD submission shall take into account all the maintenance access requirements.

• A cost estimate shall be submitted at the 100% Design Development phase milestone. The cost estimate shall take into account existing market conditions, escalation, a 20% construction contingency, a 15% design contingency and provide value-engineering options that ensure the objectives of the project are met. Prevailing wages shall apply.

• Project draft specifications shall be 100% complete.

3. Construction Documents:

• At the start of the Construction Documents (CD) Phase, the design development shall be 100% complete and include all construction trade documents.

• During the CD phase, the A/E team shall complete all drawings, specifications and documents necessary for the bidding and construction of the project. All aspects of the design shall be detailed, coordinated and included in the bid package including any information provided by WCS.

• The Consultant shall submit a review set at 50% and 90% complete. A final 100% set shall be provided for bidding at the end of this phase.

• The A/E team shall submit a 90% construction cost estimate for review. The cost estimate shall take into account existing market conditions, escalation, a 20% construction contingency and provide value-engineering options that ensure the objectives of the project are met. Prevailing wages shall apply.

• Project specifications shall be 100% complete and submitted at each CD milestone.

4. Bidding & Negotiating:

• The consultant shall be responsible for providing a complete set of bid documents to WCS. WCS will oversee the bid process. The consultant shall be available during the pre-bid site meetings to discuss any technical issues or questions that may arise and assist the WCS Project Manager in preparing any addenda items for distribution, such as sketches, drawings and/or specifications that have been revised due to value engineering. Completed documents shall be furnished as both hard copy sets and as digital full size .pdf files.
5. **Construction Administration:**

- The consultant shall review all submittals, respond to RFI's, review change order requests, review contractor Applications for Payment, conduct regular site visits (bi-weekly), issue site visit reports and attend regular progress meetings during construction (bi-weekly), which is expected to be for approximately 12 months.

**Attachments:**

- OLMS Building Elevation Drawings
- OLMS Building Roof Drawings
- Plaquarium Upper Roof Drawing
- Playquarium Lower Roof Drawing
- Playquarium Exhibit Space Drawing
This set of Wildlife Conservation Society (“WCS”) standard terms and conditions for professional services agreements is incorporated into and made a part of the agreement between WCS and the Consultant named in the cover sheet to the Agreement as of the date of such Agreement. This set of terms and conditions is agreed to by WCS and Consultant as of that date. Defined terms in this set of terms and conditions, unless the context requires otherwise, have the same meanings as defined in the cover sheet or elsewhere in the Agreement.

WCS and Consultant agree as follows:

1. Consultant Services

   A. Basic Services
      i. Consultant shall provide the professional Project services identified in Exhibit A attached hereto (the “Basic Services”) in accordance with the terms and conditions of this Agreement, the Project Milestone Schedule attached as Exhibit B, any other attachment or addendum and within the standard of care exercised by professionals within the industry.

      ii. In addition to the services provided above, the Basic Services shall include the following work, which Consultant shall perform on a time and expense basis as requested by WCS:

         a. Attendance at construction meetings;
         b. Revisions to documents to satisfy WCS objections, including but not limited to on the basis of aesthetics or budget, provided; however, that material revisions that are inconsistent with prior approvals by WCS shall be Additional Services, as defined below.

      iii. Unless specifically included in the proposal, Basic Services do not include site surveys, soil testing, and test borings, or services related to the removal or abatement of hazardous or toxic materials.

   B. Additional Services
   Project-related services by Consultant authorized in advance in writing by WCS that are outside the scope of the Basic Services identified above shall constitute Additional Services. Consultant shall not proceed to provide, and will not be compensated for, Additional Services without the
advance written authorization of WCS. Any authorized Additional Services provided in accordance with this provision shall entitle the Consultant to compensation as specified herein.

C. Reimbursable Expenses
Reimbursable Expenses are those reasonable and necessary out-of-pocket expenses actually incurred by the Consultant in providing the Basic and Additional Services up to a total designated by WCS, provided that, except for expenses for local travel, WCS must approve in writing in advance, all of Consultant’s travel expenses.

2. Compensation

Consultant acknowledges and agrees that WCS must receive Consultant’s complete and signed W-9 form before WCS can make any payments to Consultant. For Basic Services, Additional Services, and Reimbursable Expenses, the Consultant shall submit invoices monthly. Approved invoices for services performed to WCS’s satisfaction shall be paid within forty-five (45) days of receipt of invoice by electronic funds transfer to Consultant’s bank pursuant to Consultant’s wire instructions provided to WCS.

A. Basic Services
For the Consultant’s Basic Services described in Exhibit A, WCS will compensate the Consultant on the basis of a set fee for each phase of service as set forth above and in Exhibit A.

B. Additional Services
For authorized Additional Services, WCS shall compensate Consultant either (i) on the basis of hourly rates set forth in Exhibit A, in an amount not to exceed ten percent (10%) of the Total Fee set forth above or (ii) in a lump sum amount based on a defined scope of services and agreed to by both parties.

C. Reimbursable Expenses
WCS will reimburse the Consultant, in accordance with WCS’s expense guidelines, for Reimbursable Expenses up to a total of 10 percent of the Total Fee. The consultant will submit original expense documentation describing the expenses requested to be reimbursed, in a form acceptable to WCS’s comptroller, with each request for reimbursement of expenses. Notwithstanding anything to the contrary, WCS will not be liable for the Consultant’s expenses unless the Consultant submits original expense documentation describing the expenses, with each request for reimbursement of expenses within thirty (30) days from the termination or expiration of this Agreement. WCS’s reimbursement will be due upon its satisfaction with the Consultant’s expense reimbursement request and original documentation and within forty-five (45) days from WCS’s receipt of the Consultant’s expense reimbursement request and original documentation.

3. Consultant’s Responsibilities
A. Consultant represents and warrants that all of the personnel of Consultant performing services for this Project which require the person performing the service to hold an architectural, engineering, or other appropriate licenses, are and will be validly licensed, and such licenses are and will be kept in good standing. Consultant shall indemnify WCS and the City of New York for any loss, damage, or expense that WCS may incur due to the inaccuracy of the foregoing representation and warranty.

B. Consultant shall perform its services in compliance with applicable law and consistent with the professional skill and care ordinarily provided by professionals practicing in the same or similar locality under the same or similar circumstances. Consultant shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

C. Consultant shall identify a representative authorized to act on behalf of Consultant with respect to the Project and key personnel who will perform Consultant’s services. Consultant shall not replace its identified representative or key personnel without WCS’s prior approval, which shall not unreasonably be withheld.

D. Consultant shall not engage any subconsultants or subcontractors to perform services relating to the Project without WCS’s advance written consent.

E. Consultant shall coordinate its services with WCS in order to avoid unreasonable delay in the orderly and sequential progress of the Project.

F. If payment for Basic Services is on a cost-reimbursement basis and the Project includes construction, the Consultant shall make every reasonable effort to provide services for the Project so that actual construction costs do not exceed budgeted construction costs.

G. WCS shall be entitled to rely on the accuracy and completeness of services and information furnished by the Consultant.

H. Consultant shall maintain such books of account, records, documents, and other evidence concerning work under this Agreement for at least seven (7) years from the date of settlement of the final invoice. Upon request by WCS, the Contractor shall permit WCS to have timely and reasonable access to these pertinent records for inspection and audit purposes. Original records shall be retained; however, copies may be substituted if approved by WCS.

I. If government funding is being provided for this Project, the Consultant agrees to comply with all federal, state, and local requirements that apply in connection with such funding and further to amend this Agreement as required to conform to the requirements attached to such funding. Specifically and without limitation, the Consultant acknowledges that certain design or construction funds may be provided by the City of New York (the “City”). If that is the case, or if for any other reason the City becomes involved in the Project, the Consultant, without additional compensation, shall perform all services under this Agreement in accordance with all
requirements of the City applicable to the Project from time to time, including all requirements set forth in any funding agreement between WCS and the City or WCS and the New York City Economic Development Corporation (the “City Agreement”) and the City Department of Design and Construction Design Consultants Guide and any other administrative or other guide or guidelines (and amendments thereof) promulgated from time to time by the City (collectively, the “City Guide” and, together with the City Agreement, the “City Documents”). Consultant shall also fully cooperate with WCS in WCS’s efforts to comply with applicable City requirements, including, without limitation, with respect to any design approvals required on the part of the City. In the event of any inconsistencies between the provisions of this Agreement and the City Documents, the City Documents shall prevail. In addition to any approvals set forth in this Agreement, approvals from the New York City Economic Development Corporation, the City Department of Cultural Affairs, the City Department of Design and Construction, the City Department of Parks and Recreation or any other administrative agency of the City designated by the City may be required, and Consultant shall cooperate with WCS in obtaining such approvals.

4. WCS Responsibilities

A. WCS shall provide the Consultant with written documents describing the program of requirements and scope of work for the Project.

B. WCS shall identify a representative authorized to act on behalf of WCS with respect to the Project and key personnel for the Project.

C. WCS shall furnish required information as expeditiously as is consistent with the orderly progress of the Project.

5. Ownership and Use of Documents

Provided Consultant has been compensated for its services on the Project, and subject to the terms hereof, WCS shall have a license to use the plans, specifications, drawings, and other documents (the “Documents”) prepared by Consultant for the actual construction of the Project from the approved drawings and specifications, for operation and maintenance of the Project following its completion, and for additions, extensions, modifications or remodeling of the Project. At the completion of the design, the Consultant will provide WCS with an electronic version of the drawing files in AutoCAD and PDF. WCS shall not use the Documents for future alterations to this Project or for other projects without the Consultant’s prior written consent. Any unauthorized use of the Documents shall be at WCS’s sole risk and without liability to the Consultant.

Notwithstanding the above, nothing herein is intended to affect the Consultant’s copyright interest in the drawings, specifications, or other instruments of service prepared by the Consultant during the course of the Project. Submission or distribution to meet official
regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Consultant’s rights under the Copyright Law.

6. Indemnification

To the fullest extent permitted by law, Consultant shall defend, indemnify and hold harmless WCS and the City of New York, and their respective trustees, officers, employees, guests, agents, affiliates, successors and assigns (together, “Indemnitees”), from and against, and reimburse Indemnitees for, any and all claims, demands, liabilities, losses, damages, liens, encumbrances, penalties, fines, suits, proceedings, judgments, causes of action, costs, fees and expenses, including reasonable attorneys’ fees, court costs and out-of-pocket expenses (“claim(s)”), including claims for damages because of bodily injury, illness, disease, or death, damage to, loss of use, or destruction of tangible property, occurring as a result of negligent acts, errors, or omissions of Consultant or any of its subconsultants, subcontractors, sub-subcontractors, suppliers, or any of their agents, employees, officers, directors or partners relating to the Services, excluding only liability caused by the Indemnitees’ sole and exclusive negligence. Consultant further agrees to defend, indemnify and hold harmless Indemnitees from any claims, losses, or expense (including attorneys’ fees) arising from (i) any breach of this Agreement by Consultant and/or (ii) any infringement by Consultant of copyright, trademark, patent or other intellectual property rights. Consultant’s agreement set forth in this paragraph shall not be deemed excess coverage to any insurance or self-insurance Indemnitees may have to cover a claim.

7. Insurance

Consultant shall maintain insurance in the types and amounts detailed in the attached Exhibit C, Insurance Requirements.

8. Termination

This Agreement shall expire as provided for in the cover sheet to this Agreement and may be extended by mutual written agreement of Consultant and WCS. This Agreement may be terminated by either party upon five (5) business days’ written notice to the other party should the other party (i) fail substantially to perform in accordance with its terms through no fault of the party initiating the termination, or (ii) materially breach any provision, condition or warranty of this Agreement. This Agreement may be terminated by WCS upon not less than fourteen (14) business days’ written notice to Consultant for WCS’s convenience and without cause. In the event of a termination due to the fault of parties other than Consultant, Consultant (x) shall be compensated for Services satisfactorily performed up to the termination date, including reasonable expenses otherwise payable and properly incurred in performing the Services, and (y) shall not incur any additional expenses between the date of notice of termination and the date of termination without the prior written consent of WCS. Upon any termination of this Agreement, the parties will cooperate to bring their relationship to an
orderly conclusion. Paragraph 5 will apply to the extent any Work has been created prior to termination.


A. Confidentiality Consultant warrants that it will maintain in strict confidence WCS’s Confidential Information (as defined below) to which Consultant has access during the term of this Agreement. Consultant will treat WCS’s Confidential Information with the same standard of care that Consultant uses in maintaining its own Confidential Information, provided that that standard is not negligent. Consultant will use WCS’s Confidential Information only as is required by this Agreement, and Consultant will not reveal it to a third party without the prior written consent of WCS.

“Confidential Information” means information concerning each party’s affairs, activities, research, proposals, projects, finances, property or method(s) of operation, trade secrets, know-how and similar information. Confidential Information does not include information which (i) is already known through lawful means to the receiving party before the other party’s disclosure, (ii) after disclosure, becomes generally known to the public through no breach or fault of the receiving party, (iii) a party receives from a third party who is free to make such disclosure without breaching any legal obligation to the disclosing party under this Agreement, (iv) the receiving party develops independently as evidenced by its own written records, or (v) is required to be disclosed by judicial or administrative process, in which case the party required to make that disclosure will notify the other of the obligation and cooperate reasonably with that party’s effort to bar or seek a modification of the order.

Consultant will advise Consultant’s employees, independent contractors and agents that Confidential Information may be treated only as provided herein and cause Consultant’s employees, independent contractors and agents to comply with these requirements.

B. Relationship of Parties. Consultant’s relationship to WCS under this Agreement is that of an independent contractor. Nothing in this Agreement will be deemed to constitute a relationship of employer-employee, joint venture, partnership, agency or legal representation between Consultant and WCS for any purpose.

C. Conduct on Premises. If in performing its services Consultant or Consultant’s employees, independent contractors or agents are on the premises of WCS, Consultant and Consultant’s employees, independent contractors or agents will comply with all directives of WCS regarding conduct on those premises, such as safety rules and regulations. WCS will give Consultant notice of such directives.

D. Disputes; Venue; Governing Law: This Agreement will be construed and enforced in accordance with the laws of the State of New York without regard to New York’s choice-of-law rules. The parties agree that if any dispute, controversy or claim (“dispute”) arises between the parties relating to this Agreement, the parties will first seek to resolve the dispute through
informal discussions. All such discussions are and will be confidential and will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the dispute cannot be resolved informally within thirty (30) days, either party may make a written demand for non-binding mediation, specifying the scope of the dispute. If the parties cannot agree on a mediator within fifteen (15) days, then either party may commence mediation by providing to JAMS and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with JAMS and with one another in selecting a mediator from the JAMS panel of neutrals and in scheduling the mediation proceedings. The parties agree that they will participate in any mediation in good faith and that they will share equally in its costs. If the dispute is not resolved within sixty (60) days, either party may commence litigation proceedings in any state or federal court located in the State of New York, County of New York empowered to enforce this Agreement. The parties consent to the exclusive jurisdiction of such courts and hereby waive any objection thereto on the basis of personal jurisdiction, venue or any other basis. If the dispute relates to or is the subject of a lien arising out of the Consultant’s services, the Consultant may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to the resolution of the matter by other means.

E. Liens. If any creditor of Consultant places a lien on WCS property for unpaid labor or materials provided or supplied by a such creditor, Consultant shall cause the discharge thereof by payment or bonding within seven days of the date of filing of said lien, or such lesser period as shall be necessary to prevent judgment execution or foreclosure of any such lien or any adverse consequences for WCS.

F. No Consequential Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE OR RESPONSIBLE TO THE OTHER PARTY FOR INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOST PROFITS OR LOST SAVINGS, EVEN IF A PARTY IS INFORMED OF THEIR POSSIBILITY.

G. Notice. Except as otherwise expressly provided herein, all notices, consents, demands, statements, requests, or other communications given or required to be given hereunder shall be in writing and shall be deemed sufficiently given or rendered if (i) hand delivered (against a signed receipt), (ii) sent postage prepaid, by certified or registered mail, return receipt requested, or (iii) sent by nationally recognized overnight delivery service to the recipient at the address set forth on the cover page of the Agreement, provided the sender shall obtain a written receipt of such delivery. Any notice, consent, demand, statement, request, or other communication shall be deemed to have been rendered or given (a) on the date hand delivered unless such hand delivery was not on a business day, in which event delivery shall be deemed to have been rendered on the next business day, (b) four business days from the date deposited in the mail, if mailed as aforesaid, or (c) the date delivered by an overnight delivery service, unless such delivery was not on a business day, in which event delivery shall be deemed to have been rendered on the next business day. Either party, by like notice to the other, may designate a different address to which or person to whom notices shall thereafter be sent.
H. **Survival.** The provisions of this Agreement that by their context are intended to survive the expiration or termination of this Agreement shall survive, including, without limitation, paragraphs 3.A and H, 5, 6, 7, and 9. A, D, E, F, G, H, and J.

I. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and both or all of which shall constitute one and the same instrument.

J. **Miscellaneous.** This Agreement, including the cover sheet and all exhibits and attachments, all of which are incorporated in and made a part of this Agreement, constitutes the entire agreement between Consultant and WCS and may be altered only by subsequent mutual agreement in writing. Any conflict between the terms of this Agreement and the terms of any exhibit attached to this Agreement will be resolved according to the following order of priority: (i) Exhibit D, Terms and Conditions Required by NYC Agreement, (ii) this Agreement, (iii) Exhibit A, Consultant’s proposal, (iv) Exhibit B, Project Schedule, and (v) Exhibit C, Insurance Requirements. This Agreement may not be assigned by the Consultant without the prior written agreement of WCS, and any purported assignment made in violation of this prohibition will be null and void. Each party represents and warrants that this Agreement has been duly executed on its behalf by its authorized agent or agents.
EXHIBIT B
PROJECT SCHEDULE

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EXHIBIT C
INSURANCE REQUIREMENTS

For the duration of the term of the Agreement and at any time the Consultant is providing services to WCS, the Consultant agrees to obtain and maintain insurance as described and in amounts not less than those set forth below, covering the Consultant’s operations and those of any subcontractors, sub-subcontractors, suppliers, or any of their agents, employees, officers, directors or partners, in connection with the services provided.

- **Commercial General Liability (ISO CG 00 01 or equivalent)**
  
  *Minimum Limits:*
  
  $1,000,000 per occurrence  
  $2,000,000 aggregate

- **Excess Liability**
  
  *Minimum Limits:*
  
  $2,000,000 per occurrence  
  $4,000,000 aggregate

- **Auto Liability**
  
  *Minimum Limit:*
  
  $1,000,000

- **Worker’s Compensation**
  
  *Limits - Statutory Limits (New York State) Employer*
  
  *Liability Limits:*
  
  $1,000,000 – each accident  
  $1,000,000 disease – policy limit  
  $1,000,000 disease – each employee

- **Professional Liability (Errors & Omissions)**
  
  *Minimum Limits:*
  
  $1,000,000 per claim  
  $5,000,000 aggregate.

With respect to the foregoing insurance:

- All policies will include a waiver of subrogation for the benefit of WCS and the City of New York.
- Wildlife Conservation Society and the City of New York will be included as Additional Insureds under the Commercial General Liability policy, ISO CG 20 10 Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization, or equivalent.
- Insurer(s) must be authorized to do business in New York.
- Insurer(s) must have an A.M. Best rating of A-, VII or better and/or an equivalent rating from a recognized insurance company rating agency.
- Consultant’s policies shall be primary, and any insurance maintained by WCS is excess and non-contributory.
- Consultant specifically agrees to provide WCS at least 30 days’ notice of any termination, cancellation, or material modification of any of the above insurance policies.
- If the Agreement or other agreement between the Consultant and WCS requires higher insurance limits, such higher limits shall apply.

A Certificate of Insurance shall be provided to WCS in advance of the term.
APPENDIX C

Solicitation Acknowledgement

Proposers must complete and sign the following acknowledgement:

Wildlife Conservation Society
Acknowledgement of Solicitation Terms and Conditions

Date (Required): ________________

By responding to this WCS ITB, RFP, or RFQ, as the case may be, the undersigned certifies that I have reviewed the contents of this solicitation, including all appendices, graphic charts/drawings, and addenda, and determined that they are acceptable, except for those provisions specifically set forth below: (Use space below and an attachment if needed to list any provisions which require further clarification or negotiation.)

1. __________________________________________________________________________________

2. __________________________________________________________________________________

3. __________________________________________________________________________________

I certify and declare that the foregoing is true and correct.

Signed on ______________________ at ______________________

Date City,

State of ______________________

State

Signature ____________________________________________________________________________

Typed Name: _________________________________________________________________________

Note: WCS at its sole discretion may accept or reject any proposal response or cancel this solicitation in its entirety at any time without further obligation to Supplier.