



ADRIENNE J. TISSIER, CHAIR  
*Chair of MTC and BATA*

February 17, 2012

AMY REIN WORTH, VICE CHAIR  
*Vice Chair of MTC and BATA*

**REQUEST FOR QUALIFICATIONS (RFQ) / REQUEST FOR PROPOSALS (RFP)  
for**

TOM BATES  
*Vice Chair,  
BATA Oversight Committee*

**CONSTRUCTION MANAGER AT RISK SERVICES  
with GUARANTEED MAXIMUM PRICE**

DAVE CORTESE  
*Chair,  
MTC Administration Committee*

**for the REGIONAL AGENCY HEADQUARTERS FACILITY  
at 390 MAIN STREET, SAN FRANCISCO: RENOVATION & SEISMIC RETROFIT  
PART 2: RFP**

BILL DODD  
*Chair,  
BATA Oversight Committee*

Dear Proposer:

SCOTT WIENER  
*Vice Chair,  
MTC Administration Committee*

The Bay Area Headquarters Authority (BAHA) invites your firm to submit a Proposal for Construction Management at Risk (CMAR) Services with Guaranteed Maximum Price to renovate and seismically retrofit the Regional Agency Headquarters Facility at 390 Main Street, San Francisco.

STEVE HEMINGER  
*Executive Director*

This document together with its enclosures comprises Part 2: Request for Proposals (RFP), the second step of a two-step selection process. Only CMARs who have been shortlisted under Part 1: RFQ of the Request for Qualifications (RFQ) / Request for Proposals (RFP) for the Construction Manager at Risk Services with Guaranteed Maximum Price for the Regional Agency Headquarters Facility at 390 Main Street, San Francisco: Renovation & Seismic Retrofit, dated January 20, 2012, as amended by Addendum #1, on January 25, 2012 and Addendum #2 on February 7, 2012 (referred to hereafter as Part 1: RFQ) may respond to this Part 2: RFP. This Part 2: RFP will be used to select a CMAR for the Project. See Section V of this Part 2: RFP for the CMAR selection timetable. Proposals must be submitted in accordance with the instructions set forth in this RFP.

ANN FLEMER  
*Deputy Executive Director, Policy*

ANDREW B. FREMIER  
*Deputy Executive Director, Operations*

You may download a copy of Part 2: RFP from MTC's website at <http://bids.mtc.ca.gov/procurements/65>.

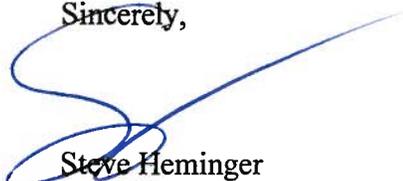
**BAHA Point of Contact**

Stephen Wolf will be BAHA's Project Manager and point of contact for this selection process and the contract. Proposals and all inquiries relating to this RFP shall be submitted to Stephen Wolf, Project Manager, at the address shown below. For telephone inquiries, call (510) 817-5968. E-mail inquiries may be directed to [swolf@mtc.ca.gov](mailto:swolf@mtc.ca.gov)

Stephen Wolf, Project Manager  
Bay Area Headquarters Authority  
Joseph P. Bort MetroCenter  
101 Eighth Street  
Oakland, CA 94607-4700

Thank you for your participation.

Sincerely,



Steve Heminger  
Executive Director, BAHA

SH : SW

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## **I. BACKGROUND AND EXISTING CONDITIONS**

### ***A. Background***

Refer to Part 1: RFQ.

### ***B. Existing Condition***

Refer to Part 1: RFQ.

## **II. PROPOSER MINIMUM QUALIFICATIONS AND REQUIREMENTS**

The short-listed CMAR firms are eligible to submit a Proposal for this project.

## **III. PRELIMINARY SCOPE OF WORK, PERIOD OF PERFORMANCE, AND BUDGET**

### ***A. Preliminary Scope of Work***

The Preliminary Scope of Work for the project was included as *Appendix A, Preliminary Scope of Work*, of Part 1: RFQ. See also *Appendix A, Project Manual, Division 0 and 1* of this Part 2: RFP for additional details.

The selected CMAR will be expected to perform all work and analysis necessary to complete the Preliminary Scope of Works included in both Part 1: RFQ and Part 2: RFP.

### ***B. Period of Performance***

BAHA expects the CMAR to commence providing Preconstruction Services on or about April 10, 2012. Should a Construction Contract be issued, BAHA expects the CMAR to reach substantial completion of Agency and related public spaces and receive temporary certificate of occupancy to allow Agency move-in on or before September 30, 2013. At BAHA's sole option, additional Preconstruction and Construction Contracts may be issued to the selected CMAR for four (4) additional years for additional services related to the renovation and retrofit of the Regional Agency Headquarters Facility. See Part 1: RFQ, *Appendix A, Preliminary Scope of Work*.

### ***C. Construction Budget***

BAHA has budgeted approximately \$53 Million for construction costs for this project, which excludes preconstruction fees and contingency. This includes a move-in ready condition, less furniture, fixtures, and equipment (FF&E), for 240,000 square feet of Agency space, and warm shell condition for the remaining space.

#### **IV. MANDATORY PRE-PROPOSAL CONFERENCE AND TOUR, REQUESTS FOR CLARIFICATION OR EXCEPTIONS, AND ADDENDA**

A Mandatory Pre-Proposal Conference and Tour will be held to review this Part 2: RFP and the project scope at 9:00 a.m., Thursday, February 23, 2012. The conference will be held at 390 Main Street. **Please arrive by the start time listed.** Attendance at this conference is mandatory for shortlisted CMAR firms. Attendance is optional for interested subcontractors.

Proposers may schedule additional opportunities to see 390 Main Street through the Project Manager with at least 72 hours notice.

At no time during the Proposal process may Proposers engage or attempt to engage the existing tenant, "Tenant". Proposers will not be provided access to Tenant's space except if BAHA's Project Manager coordinates one tour for all Proposers.

Any requests for clarification or questions regarding RFP requirements must be received by BAHA no later than 2:00 pm on Friday, March 2, 2012 to guarantee consideration. Proposers are encouraged to submit any requests for clarification or questions as early as possible.

Any addenda to this RFP that may be issued by BAHA will be posted at <http://bids.mtc.ca.gov/procurements/65>. It is the Proposer's responsibility to check for addenda and questions and answers related to this RFP and comply with new or revised requirements that may be stated therein as BAHA does not send notifications.

#### **V. CMAR SELECTION TIMETABLE**

Tuesday, February 14, 2012	Shortlisted Firms Notified
Friday, February 17, 2012	RFP Distributed to Shortlisted Firms
Thursday, February 23, 2012 at 9:00 a.m.	Pre-Proposal Conference & Tour (Mandatory for shortlisted CMAR firms)
No later than 2:00 pm on Friday, March 2, 2012	Closing date/time for receipt of requests for clarification/exceptions
No later than 2:00 p.m. three (3) working days prior to the date proposals are due.	Deadline for protesting RFP provisions
<b>2:00 p.m., on Friday, March 9, 2012</b>	<b>Closing date/time for receipt of Proposals</b>
Monday, March 19, 2012 and Tuesday, March 20, 2012*	Interviews/Discussions (if held)
Week of March 19, 2012*	Deadline for receipt of Best and Final Offers (if requested)

Wednesday, March 28, 2012\*

BAHA Approval of Selection of CMAR

Tuesday, April 10, 2012\*

Agreement Executed

*\*Dates are approximate and are subject to change.*

## VI. SUBMITTAL OF PROPOSALS

1. Interested firms must submit one original and six (6) copies of their Proposal by **2:00 p.m., Friday, March 9, 2012.**
2. Proposals are to be addressed as follows:

BAHA Facility CMAR PROPOSAL  
Attention: Stephen Wolf  
BAHA  
101 8<sup>th</sup> Street, 3<sup>rd</sup> Floor Reception Area  
Oakland, CA 94607
3. Proposer's name and return address must also appear on the envelope.
4. Proposals will be received only at the address shown above, and **not later than the time indicated.** Any Proposals received after said time and date or at a place other than the stated address cannot be considered and will be returned to the Proposer unopened.
5. No telephone or facsimile proposals will be considered.
6. All Proposals, whether delivered by an employee of the Proposer, U.S. Postal Service, courier or package delivery service, must be received and time stamped at the stated address **not later than the time designated.** The receptionist desk's timestamp located on the 3<sup>rd</sup> floor shall be considered the official timepiece for the purpose of establishing the actual receipt of Proposals.
7. CMAR agrees and acknowledges all Part 1: RFQ and Part 2: RFP terms and conditions, including requirements contained in this Part 2: RFP and its Appendix A, Project Manual, Division 0 and 1, and indicates ability to perform by submission of a Proposal.
8. A signed Proposal submitted to BAHA in response to this Part 2: RFP shall constitute a binding offer from CMAR to contract with BAHA according to the terms of this Part 2: RFP for a period of one hundred twenty (120) days after the Proposals are due to BAHA.
9. This Part 2: RFP does not commit BAHA to award a contract or to pay any costs incurred in the preparation of a Proposal in response to this Part 2: RFP.
10. Only one Proposal will be accepted from any one person, partnership, corporation, or other entity.

11. As per Section IX, General Conditions, Article D, Public Records all materials submitted by proposers are subject to public inspection under the California Public Records Act (Government Code § 6250 *et seq.*), unless exempt.
12. BAHA reserves the right to accept or reject all Proposals submitted, waive minor irregularities, request additional information, or revisions to offers, and negotiate with any or all proposers.
13. BAHA reserves the right in its sole discretion not to enter into any contract as a result of this RFP.

## VII. FORM OF PROPOSAL

1. Proposals are to be straightforward, clear, and concise and provide specifics to the information requested.
2. In order for Proposal to be considered complete, Proposer must provide all information requested. Sections that should be included in the Proposal are listed herein. Organize the Proposal to follow the organization of this RFP.
3. Size of Proposal – limit proposal to one three-ring or spiral-bound binder. Proposers are encouraged to print on both sides of each page to save paper. Do not include generic marketing material.
4. Recommended page limits, where specified, are for each side of print. Proposers are encouraged to print double-sided copies to save paper.
5. Provide the following information in your SOQ. Sections that will be scored are indicated below with the maximum possible points.

## CONTENT OF PROPOSAL

	SECTION	MAXIMUM POINTS
A.	<b>Transmittal:</b> Letter signed by an official authorized to solicit business and enter into contracts for the firm and the name and telephone number of a contact person, if different from the signature, and a statement that the Proposal is a firm offer to enter into a contract with BAHA according to the terms of this Part 2: RFP for one hundred twenty (120) days following its submission.	Required, but not scored
B.	<b>Title page:</b> that includes the RFP subject, the full legal name of the proposer’s firm, local address, telephone and fax numbers, website, name of contact person, contact person’s telephone number and email address, and the date.	Required, but not scored
C.	<b>Table of contents:</b> that includes a clear identification of the material by	Required,

	section and page number.	but not scored
<b>D.</b>	<p><b>Project Stabilization Agreement:</b> This project will be subject to a Project Stabilization Agreement (PSA). The selected CMAR will be expected to execute a Letter of Assent and to have all subcontractors of any tier be similarly bound for all work within the scope of the agreement by signing a Letter of Assent.</p> <p>Provide a letter signed by the CMAR's authorized representative on CMAR's letterhead agreeing to execute a Letter of Assent to the PSA, once finalized.</p> <p>See <i>Appendix D, Draft Project Stabilization Agreement.</i></p>	Required, but not scored
<b>E.</b>	<p><b>Non-Collusion Form:</b> Proposer and each subconsultant are required to provide a signed <i>Appendix C, Non-Collusion Affidavit.</i></p>	Required but Not Scored
<b>F.</b>	<p><b>List of Work CMAR plans to Self-Perform:</b> Provide a list of the work that the Proposer intends to self-perform.</p> <p>If Proposer plans to self-perform work, provide sample cost proposals for each trade that Proposer intends to self-perform. Provide a brief summary explaining how the quote was developed and what information is provided. Identify the methods and estimating tools Proposer uses to determine the cost of the self-performed work.</p>	Required but Not Scored
<b>G.</b>	<p><b>Final Staffing Plan:</b> Provide the Final Staffing Plan in the same format as the Preliminary Staffing Plan from Part 1: RFQ. For any Key Personnel who have been changed or had their title changed from Part I: RFQ, explain the reason for that change. Proposers risk substantial loss of points for any change to Key Personnel, as identified by BAHA in Part 1: RFQ, that the evaluation panel considers a decrease in quality or experience.</p> <p>Supplement required Key Personnel from Part 1: RFQ with the following additional Key Personnel and their resumes: Project Executive, Project Scheduler, BIM Manager, General Construction Estimator, MEPF (Mechanical, Electrical, Plumbing, Fire Protection) Coordinator.</p> <p>In a list, identify:</p> <ul style="list-style-type: none"> <li>• Each Key Personnel participating in the Preconstruction Phase and his/her role.</li> <li>• The level of participation (as a percentage of time) that each will be assigned to this phase.</li> <li>• The start date when each will be available to perform at the stated level of participation.</li> <li>• For anyone slated for a full-time role and who is currently on an</li> </ul>	100 Points

	<p>active project(s), identify the current project(s) and any requirements the existing client has for replacing this staff member. For anyone slated for a part-time role, identify the other project(s) that person will be working during the Preconstruction Phase.</p> <ul style="list-style-type: none"> <li>• For each Key Personnel, identify the specific responsibilities Key Personnel will have in the Preconstruction Phase of this Project. Identify who will be BAHA’s primary Point-of-Contact for this phase.</li> </ul> <p>In a separate list, provide the same information for the Construction Phase. In addition, identify those staff who will work primarily from the field and those who will work primarily from the home office.</p> <p><i>This section will be scored based on the following, in descending order of importance:</i></p> <ul style="list-style-type: none"> <li>• <i>Acceptability of any changes made to Key Personnel;</i></li> <li>• <i>Qualifications of Key Personnel; and</i></li> <li>• <i>Availability of Key Personnel.</i></li> </ul>	
<p><b>H.</b></p>	<p><b>Special Systems:</b> For the following, identify any resources and personnel that will be used to coordinate the preconstruction- and construction-related work and describe any relevant project experience.</p> <ol style="list-style-type: none"> <li>1. <b>Laboratory:</b> The Project includes the build-out of approximately 10,000 square feet of laboratory for the Air District, including wet laboratory and clean room space. The project also may require the relocation of 6,000 square feet of existing lab space of the existing tenant.</li> <li>2. <b>Server Room:</b> The Project includes the upgrade of approximately 30,000 square feet of server room space and the server and network migration of several agencies.</li> <li>3. <b>Governing Board Room and Conference Center:</b> The project includes a 2,000-square-foot governing board room and an 8,000-square-foot conference center. Considerations include coordination of audio-visual equipment, information technology infrastructure, and acoustics.</li> </ol> <p>Provide owner references who can attest to the Proposer’s ability.</p> <p>Limit response to 6 pages or fewer.</p> <p><i>This section will be based on the Proposer’s demonstrated qualifications and experience on these or similar types of special systems.</i></p>	<p>50 points</p>

<p><b>I.</b></p>	<p><b>Decision Points and Opportunities:</b> In order to construct the project within the construction budget and within the project schedule, the CMAR will collaborate with BAHA and the A/E on how to address major building systems, and assist the team in the creation of a plan for permitting and bidding packages.</p> <p>In this section, identify and offer solutions to major decision points and opportunities BAHA should consider that will have the greatest impact to the final budget and schedule without changing the primary intent of the Project, which is to create a Regional Agency Headquarters Facility ready for MTC, Air District, and BCDC move-in by September 30, 2013. Some examples include:</p> <ul style="list-style-type: none"> <li>• How can BCDC be moved into a temporary space at 390 Main by March 30, 2013, the expiration date of their current lease, or do they need to find a temporary location elsewhere?</li> <li>• How will construction proceed with existing Tenant remaining in operation in its current location? How can the work be completed in a manner that maintains Tenant’s “quiet enjoyment” and allows their sensitive and highly calibrated testing laboratory to continue to function?</li> <li>• What is the best way to address the MEP system, given the information provided in the due diligence reports and Proposer’s site observations? How does replacement compare with reuse? Is the design better handled by the Owner’s A/E team or by a design-build subcontract under the CMAR?</li> <li>• Given the budget, and with the primary focus being the scope required to make the building ready for occupancy, what is a reasonable expectation for the treatment of the exterior shell?</li> </ul> <p>Where possible, provide the order-of-magnitude cost and schedule impacts of these decision points and opportunities.</p> <p>Consider the current assumptions:</p> <ol style="list-style-type: none"> <li>1. The project will receive a CEQA Categorical Exemption.</li> <li>2. The existing tenant, Tenant, leases approximately 33,000 square feet of office and laboratory space on the South half of Level 7 but has a lease through 2015. See <i>Appendix E, Floor Plan</i> for a layout that shows Tenant floor space.</li> <li>3. BAHA, Air District, and BCDC prefer to occupy Levels 4-7.</li> <li>4. The preliminary scope of work includes the following (See <i>Appendix E, Floor Plan</i> for associated marked up floor plans): <ul style="list-style-type: none"> <li>• Hazardous materials abatement as detailed in due diligence reports;</li> <li>• Demolition of all interior partitions on Levels B-7 (except</li> </ul> </li> </ol>	<p>100 points</p>
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	<p>Tenant space on 7);</p> <ul style="list-style-type: none"><li>• The creation of an approximately 10,000 square-foot skylight atrium with smoke control extending through all levels of the building created by the removal of one row of columns and two bays of floorplate of the building on all floors;</li><li>• Seismic retrofit of the building up to a life safety level for the 10% in 50 year earthquake. The preliminary scheme includes the construction of a series of two-bay by 14-inch reinforced concrete shear walls from Level B to 6 with spread footing and micropiles below;</li><li>• Reuse and rehabilitation of air handlers, boilers and chillers and replacement of all distribution systems or replacement of all mechanical equipment with new efficient equipment;</li><li>• Certification at LEED Gold;</li><li>• Build-out of 240,000 square feet of move-in ready BOMA Class B agency office space. Of this space, it is desirable to have 20,000 square feet to be completed earlier to allow BCDC to move in before their current lease expires March 30, 2013. This space includes<ul style="list-style-type: none"><li>○ 210,000 square feet on contiguous floors of MTC, Air District, and BCDC floor space;</li><li>○ 2,000 square feet of board room seating 150 people with a raised stage and dais and tiered seating located at Level B. Assume removal of 4 columns, installation of transfer girders and removal of the floor above the auditorium at Level 1 to accommodate adequate ceiling clearances and audience sightlines;</li><li>○ 8,000 square-foot conference center at Level B;</li><li>○ 10,000 square feet of laboratory space for the Air District;</li><li>○ Migration of agency networks to a 10,000-square-foot data center.</li></ul></li><li>• The remaining space shall be warm shell office space for future tenants;</li><li>• A new ground floor lobby and the replacement of existing roll up doors on Beale Street with glazed storefront;</li><li>• Parking for 80 cars inside the building on Level B and/or 1;</li><li>• Improvement to the exterior envelop, including limited areas of replacement of exterior skin and re-painting all facades;</li><li>• Rehabilitation or replacement of four core passenger elevators and installation of two additional new core passenger elevators;</li><li>• Replacement of all electrical distribution systems (except those serving the data server room);</li><li>• Replacement of all plumbing systems and fixtures and installation of new toilet rooms.</li></ul>	
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	<p><i>This section will be scored based on the following, in descending order of importance:</i></p> <ul style="list-style-type: none"> <li>• <i>Ability to identify major decision points and opportunities that are reasonable and technically sound given the information provided.</i></li> <li>• <i>Soundness and reasonableness of the cost and schedule impacts.</i></li> <li>• <i>Consistency of the ideas with the primary intent as identified above.</i></li> <li>• <i>Clarity of response.</i></li> </ul>	
<p><b>J.</b></p>	<p><b>Packaging Plan, Schedule and Budget:</b> Based on BAHA’s current assumptions for the project as identified in Part I above, provide:</p> <ul style="list-style-type: none"> <li>• Permit and Bid Packaging Plan in narrative form describing the sequencing of the permitting and the grouping of subcontract packages that allows BAHA to fast track and phase construction such that a September 30, 2013 move-in date for the agency space is achieved.</li> <li>• Include a summary level 30 to 50 activity schedule in bar graph form showing design, bidding and construction activities for each subcontract having a value in excess of 2% of the construction budget and any major construction activities.</li> <li>• Note any major assumptions made by the Proposer, including any of those taken from the Proposer’s response to Item I, above.</li> <li>• Provide a preliminary budget break-down for construction. As possible, compare with prices from similar current projects.</li> <li>• Identify experience and provide keys to working with city building departments on fast track projects requiring multiple permits and phased construction, with an emphasis on any such work with the San Francisco Department of Building Inspection.</li> </ul> <p>Base the Packaging Plan on the following A/E deliverable assumptions, or provide alternate assumptions if required for your schedule:</p> <ul style="list-style-type: none"> <li>• Demolition Drawings issued for bid and permit 6/1/12;</li> <li>• Foundation Drawings issued for bid and permit by 7/15/12;</li> <li>• Structural Drawings issued for bid and permit by 8/15/12;</li> <li>• Exterior core and shell drawings issued for bid and permit 12/3/12; and</li> <li>• Interior work issued for bid and permit 1/2/13, including tenant improvements. (If it is possible to create early move-in space for BCDC, these drawings will be done on a separate schedule)</li> </ul> <p><i>This section will be scored based on the following, in descending order of importance:</i></p> <ul style="list-style-type: none"> <li>• <i>Realistic, reasonable, and rational nature of the information provided and the assumptions and logic behind it;</i></li> <li>• <i>Technical quality of the information provided;</i></li> <li>• <i>Relevant experience;</i></li> </ul>	<p>100 points</p>

	<ul style="list-style-type: none"> <li>• <i>Clarity of response.</i></li> </ul>	
<b>K.</b>	<p><b>Dispute Resolution:</b></p> <ul style="list-style-type: none"> <li>• Separate from what is covered and described in the Project Stabilization Agreement, describe Proposer’s philosophy for preventing and handling contract disputes, both with owners and subcontractors.</li> <li>• Describe the Proposer’s approach to claims and litigation, and the mechanisms Proposer puts in place to avoid both.</li> <li>• Describe the Proposer’s approach to partnering with owners and subcontractors.</li> <li>• Provide input on what the Proposer would like to see from the Owner as relates to the above.</li> </ul> <p><i>This section will be scored based on the following, in descending order of importance:</i></p> <ul style="list-style-type: none"> <li>• <i>Strength of Proposer’s commitment to resolving disputes before they become claims and litigation.</i></li> <li>• <i>Strength of mechanisms Proposer has or will put in place to resolve disputes satisfactorily for all parties.</i></li> </ul>	50 points
<b>L.</b>	<p><b>Cost Proposal:</b> Complete <i>Appendix B, Cost Proposal Form</i> of this Part 2: RFP and include the required breakdowns of CMAR staff costs and fees for major deliverables.</p> <p><i>Cost Proposals will be scored as follows:</i></p> <p><i>If Proposer A is provides the lowest Total Cost for Services at \$11,000 and Proposer B provides a Total Cost for Services of \$12,000,</i></p> <ul style="list-style-type: none"> <li>• <i>Proposer A receives 125 points</i></li> <li>• <i>Proposer B receives 125 points x (\$11,000/\$12,000) = 115 points</i></li> </ul>	125 points
<b>M.</b>	<p><b>Communication:</b> <i>Completeness, clarity, and conciseness as demonstrated in the Proposal and interviews/discussions (if held).</i></p>	25 points
	<b>Total Maximum Points</b>	<b>550 points</b>

## VIII. PROPOSAL EVALUATION

### *A. Review for General Responsiveness*

The Project Manager, in consultation with the BAHA Office of General Counsel, will conduct an initial review of the Proposals for general responsiveness. Any Proposal that does not include enough information to permit the evaluators to rate the Proposal in any one of the evaluation factors listed above, VII. Form of Proposal, Items G through M, will be considered non-responsive and will not be evaluated. A Proposal that fails to include one or more items requested in RFP may be considered responsive, if evaluation in every criterion is possible.

BAHA reserves the right to request additional information from responsive proposers prior to evaluation.

### *B. Evaluation Panel and Evaluation Criteria*

Responsive Proposals will then be evaluated by an Evaluation Panel of BAHA, and partner agency staff based on the Items G through M, listed in Section VII, Form of Proposal of this Part 2: RFP. The evaluation of the proposals shall be within the sole judgment and discretion of the Evaluation Panel.

**All contact with BAHA during the evaluation phase shall be only through the BAHA Project Manager. Proposers shall neither contact nor lobby any evaluation panel members during the evaluation process.** Attempts by proposer to contact and/or influence members of the evaluation panel may result in disqualification of Proposer.

### *C. Interviews/Discussions*

The purpose of discussions (if held) with a CMAR will be to identify that Proposer's specific deficiencies and weaknesses in its Proposal and to provide the Proposer with the opportunity to consider possible approaches to alleviating or eliminating them in the Proposal or BAFO. These deficiencies or weaknesses may include such things as schedule issues, approach, cost, or team composition. Discussions may take place through written correspondence (including e-mail) and/or face-to-face meetings. The Project Manager, as well as other key personnel identified by the evaluation panel, will be expected to participate in any discussions. A CMAR invited to participate in discussions may be expected to provide a presentation limited to 20 minutes consisting of an overview of its approach to the Project.

BAHA reserves the right to not convene discussions and to make an award on the basis of initial proposals received in response to Part 2: RFP, with or without interviews.

### *D. Request For Best And Final Offer (BAFO)*

Following discussions, if held, Proposers will be given the opportunity to revise their written proposals to address the concerns raised during discussions through issuance of a Request for Best and Final Offer (BAFO). Following receipt of the BAFOs, the evaluation panel will evaluate the BAFOs against the evaluation criteria. BAHA reserves the right not to convene oral interviews or discussions, and to make an award on the basis of initial proposals received in response to Part 2: RFP. References may be contacted at any point in the evaluation process.

The panel will recommend a CMAR to the BAHA Executive Director, based on their evaluation of the written proposals or BAFOs and oral interviews or discussions (if held). The Executive Director will review the recommendation and, if he agrees, forward the recommendation to the BAHA Committee for approval.

BAHA reserves the right to accept or reject all proposals submitted, waive minor irregularities, request additional information, or revisions to offers, and negotiate with any or all proposers.

## IX. GENERAL CONDITIONS FOR PRECONSTRUCTION SERVICES

### *A. Award*

All finalists may be required to participate in negotiations and to submit such price, technical, or other revisions of their proposals as may result from negotiations. BAHA also reserves the right to award the contract without discussion, based upon the initial Proposals. Accordingly, each initial Proposal should be submitted on the most favorable terms from a price and a technical viewpoint. Any award made will be to the CMAR whose Proposal is most advantageous to BAHA based on the evaluation criteria outlined in Section VIII of this Part 2: RFP.

### *B. Contract Arrangements*

A link to the BAHA Professional Services Contract was provided for your reference as *Appendix D* to Part 1: RFQ. If BAHA elects to revise this agreement, such revision(s) will be issued to all Proposers and the revised agreements will be made available to the shortlisted CMAR firms.

The selected CMAR will be required to maintain insurance coverage, during the term of the contract, at the levels described in the BAHA Professional Services Contract, *Appendix D* to Part 1: RFQ as also listed in this Part 2: RFP and its *Appendix A*, Project Manual, Divisions 0 and 1. CMAR agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements established in the RFQ phase of this procurement.

**The selected CMAR shall provide the services proposed in their SOQ submitted in response to Part 1: RFQ and their Proposal and all of the required services included in this Part 2: RFP and its *Appendix A*, Project Manual, Divisions 0 and 1.**

The Construction Phase CMAR contract is included in the Part 2: RFP as *Appendix A*, Project Manual, Division 0 and 1. See Section 005000.

The Contract for Preconstruction services will be a deliverables-based contract in the form set out in *Appendix D*, BAHA Professional Services Contract of Part 1: RFQ, with payments based on costs submitted in Form B, Preconstruction Deliverables Costs, of *Appendix B*, Cost Proposal of this Part 2: RFP. Deliverables-based payments will be made upon receipt of satisfactory deliverables.

The Contract for Preconstruction services will include a provision permitting BAHA to terminate the Contract with the selected CMAR within one hundred twenty (120) days of contract execution, at its sole discretion: (a) if CMAR has not satisfactorily complied with the requirements of the Contract's scope of work, as set forth in this RFQ/RFP and (b) if the areas of

noncompliance are such that by their nature are unlikely to be capable of cure. In such event, BAHA will provide no less than forty-five (45) days advance notice to CMAR of the intent to terminate, and BAHA will have the right to negotiate with the next highest ranked proposer under the terms of the RFP. BAHA also reserves the right to cancel this procurement and re-procure the CMAR for this project if it is determined to be in its best interest to do so.

Before performing any Construction-related services the CMAR will be required to sign the Construction Agreement, included in Section 005000, Construction Agreement of *Appendix A, Project Manual, Divisions 0 and 1* of this Part 2: RFP.

### *C. Selection Disputes*

A proposer may object to a provision of this Part 2: RFP on the grounds that it is arbitrary, biased, or unduly restrictive, or to the selection of a particular CMAR on the grounds that BAHA procedures, the provisions of the Part 2: RFP or applicable provisions of federal, state or local law have been violated or inaccurately or inappropriately applied by submitting to the Project Manager a written explanation of the basis for the protest:

- 1) No later than 2:00 p.m. three (3) working days prior to the date proposals are due, for objections to Part 2: RFP provisions;
- 2) No later than 2:00 p.m. three (3) working days after Proposer is notified that it was found to be non-responsive; or
- 3) No later than 2:00 p.m. three (3) working days after the date BAHA authorizes award or the date the proposer is notified it was not selected, whichever is later, for objections to the CMAR selection.

Except with regard to initial determinations of non-responsiveness or failure to meet the minimum requirements, the evaluation record shall remain confidential until BAHA authorizes award.

Protests of recommended awards must clearly and specifically describe the basis for the protest in sufficient detail for the BAHA Review Officer to recommend a resolution to the Executive Director.

The Executive Director will respond to the protest in writing, based on the recommendation of a staff Review Officer. Authorization to award a Contract to a particular CMAR by BAHA's Executive Director shall be deemed conditional until the expiration of the protest period or, if a protest is filed, the issuance of a written response to the protest by the BAHA Executive Director.

Should the Proposer wish to appeal the decision of the BAHA Executive Director, it may file a written appeal with BAHA, no later than 2:00 p.m. three (3) working days after receipt of the written response from the BAHA Executive Director. BAHA's decision will be the final agency decision.

#### ***D. Public Records***

This Part 2: RFP and any material submitted in response to this Part 2: RFP are subject to public inspection under the California Public Records Act (Government Code § 6250 et seq.), unless exempt by law. Other than proprietary information or other information exempt from disclosure by law, the content of Proposals submitted to BATA will be made available for inspection consistent with its policy regarding Public Records Act requests.

Each proposer must clearly mark each page of its Proposal that the proposer considers to contain trade secrets or other confidential commercial or financial information that the proposer believes would cause substantial injury to the proposer's competitive position, if disclosed, and include the following notice at the front of its Proposal:

“The data on the following pages of this Proposal, marked along the right margin with a vertical line, contain technical or financial information which are trade secrets and/or which, if disclosed, would cause substantial injury to the proposer's competitive position. The proposer requests that such data be used for review by BAHA only, but understands that exemption from disclosure will be limited by BAHA's obligations under the California Public Records Act. (Proposer to list pages marked).”

Failure to include this notice with relevant page numbers shall render any individual markings inadequate. Individual pages shall accordingly not be treated confidentially. **Any language purporting to render the entire Proposal or the Cost Proposal confidential or proprietary will be regarded as ineffective and will be disregarded.**

In the event properly marked data is requested pursuant to the California Public Records Act, the proposer will be advised of the request and given the opportunity to provide to BAHA a detailed statement indicating the reasons it believes the information should be withheld from disclosure. The proposer may be asked by BAHA, as a condition of non-disclosure, to indemnify and hold BAHA harmless, in the event of claims made as a result of non-disclosure.

#### ***E. Key Personnel***

Key Personnel assigned to the project are expected to remain on the project. Any change in Key Personnel of the proposed project team is subject to prior written approval of BAHA. Removal of any Key Personnel identified in the Proposal without written consent of the Project Manager may be considered a material breach of contract and may result in Termination for Cause or the assessment of a penalty.

See Part 2: RFP, *Appendix A, Project Manual, Division 0 and 1*, Section 013102, Contractor Staff for additional requirements related to CMAR Key Personnel and other staff.

#### ***F. Organizational Conflicts Of Interest***

Proposer shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under the agreement resulting from this and other BAHA solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to BAHA; a firm or person's objectivity in

performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Project. Whenever BAHA is awarding a contract that involves the rendering of advice, it will consider whether there exists the potential for bias, because of other activities, relationships or contracts of the consultant, and if so, whether any potential bias can be mitigated acceptably by BAHA and the consultant.

Proposer shall not engage the services of any subcontractor or independent contractor on any work related to this Agreement if the subcontractor or independent contractor, or any employee of the subcontractor or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

**APPENDIX A, PROJECT MANUAL, DIVISIONS 0 AND 1**

Please visit <http://bids.mtc.ca.gov/procurements/65> to download and/or view Appendix A.

## **APPENDIX B, COST PROPOSAL**

Please visit <http://bids.mtc.ca.gov/procurements/65> to download and/or view Appendix B.

**APPENDIX C, NON-COLLUSION AFFIDAVIT**

**390 MAIN STREET RENOVATION AND SEISMIC RETROFIT**

State of California,  
County of \_\_\_\_\_

I, \_\_\_\_\_ being first duly sworn,  
(name) deposes and says he or she is \_\_\_\_\_  
(Position / Title)

of \_\_\_\_\_  
(Company)

The party making the foregoing proposal and that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal; and has not directly or indirectly colluded, conspired, connived, or agreed with any Proposer or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the Proposer has not in any manner directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the Proposer or any other Proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other Proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the Proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

\_\_\_\_\_  
Date (signature of Affiant)

\_\_\_\_\_  
(type/print name and title)

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2012

At (City) \_\_\_\_\_ State \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public or Officer Taking Oath

\_\_\_\_\_  
Seal of Notary Public or Officer Taking Oath

**APPENDIX D, DRAFT PROJECT STABILIZATION AGREEMENT**

Please visit <http://bids.mtc.ca.gov/procurements/65> to download and/or view Appendix D.

APPENDIX E  
FLOOR PLAN

**390 Main Street**  
**7th Floor**

Existing Tenant Space

