



REQUEST FOR PROPOSALS

BEACON CORRECTIONAL FACILITY
DUTCHESS COUNTY, NEW YORK

RFP RELEASE DATE:	SEPTEMBER 20, 2018
SITE TOUR DATE:	OCTOBER 11, 2018
DEADLINE TO SUBMIT QUESTIONS:	OCTOBER 19, 2018 BY 12:00 PM EST
DEADLINE TO SUBMIT PROPOSALS:	DECEMBER 20, 2018 BY 12:00 PM EST



**Empire State
Development**

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I. INTRODUCTION

New York State Urban Development Corporation, d/b/a Empire State Development (“ESD”), is seeking proposals for the purchase and redevelopment of the former Beacon Correctional Facility in Beacon, NY (the “Project”). Located one mile from vibrant downtown Beacon and sixty miles from New York City, the Beacon Correctional Facility (the “Site”) comprises approximately 39 acres of developable land.

ESD invites qualified parties (“Respondent” or “Respondents”) to submit proposals (“Proposal” or “Proposals”) for a high-quality commercial or mixed-use development that will generate jobs and stimulate economic activity in the region. ESD will consider Proposals that include a residential component as part of a mixed-use development, but preference will be given to Proposals in which residential development is not the majority use of the Site.

The Site presents an exciting development opportunity in light of its prime location, proximate resources, and available funding from the State of New York (“the State”). The area surrounding the Site is a popular artistic and cultural hub and major tourist destination, offering strong transit infrastructure (rail, ferry, air and vehicular) and an economic environment friendly to a wide variety of industries. The Site is also located in a federal Opportunity Zone, providing tax incentives for long-term investment in the area.

In addition, the State has allocated \$6 million in grant funding through the State and Municipal Facilities Program (“SAM”) to support the redevelopment of the Site. While SAM requires a separate application process, Respondents may include in their Proposals ideas for using up to \$6 million of this funding for eligible capital purposes on the Site. Eligible capital purposes include:

- Capital costs of construction, improvement, rehabilitation or reconstruction of facilities
- Acquisition of capital facilities and assets
- Acquisition of capital assets with at least a 10-year useful life for the sole purpose of preserving and protecting infrastructure
- Economic development projects sponsored by the State or municipal corporations that create or retain jobs (this will require certification by the Department of Economic Development)
- Environmental projects sponsored by the State or municipal corporations

ESD will evaluate all Proposals in response to this Request for Proposals (“RFP”) in accordance with the Selection Criteria listed within this RFP. A Respondent who is conditionally designated through this RFP process is referred to herein as a “Designated Developer.”

To get a better sense of the Site and surrounding area, we encourage you to view this promotional video created by ESD: <https://wdrv.it/24805c806>.

II. RFP TIMELINE & NOTICE

The following are significant dates under the RFP process:

<u>Event</u>	<u>Timeline</u>
1. RFP Release Date	September 20, 2018
2. Site Tour	October 11, 2018
3. Deadline for Submission of Questions	October 19, 2018, 12:00 PM EST
4. Deadline for ESD to Respond to Questions	October 29, 2018
5. Submission of Proposals	December 20, 2018, 12:00 PM EST
6. Interviews (if necessary)	TBD
7. Anticipated Contract Date	TBD

IMPORTANT NOTICE: A restricted period under the Procurement Lobbying Law is currently in effect for this procurement and will remain in effect until approval of any contract. Respondents are prohibited from contact related to this procurement with any New York State employee (excluding members of the State Legislature and their staff), other than the designated contacts (“Designated Contacts”) listed below.

Please see <http://ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html> for more information about this restriction.

Designated Contacts for the RFP:

Primary Contact: John Discolo

Secondary Contact: Ralph Volcy

All contacts/inquiries must be made by email to the following address: BeaconCF@esd.ny.gov

III. SITE DESCRIPTION AND CONTEXT

A. Site Description

The Site is a former minimum-security prison campus located at 50 Camp Beacon Road, Beacon, NY 12508, southwest of the Fishkill Correctional Facility, which is still in operation. The majority of the Site lies within the northeastern portion of the City of Beacon, with the northernmost section falling within the Town of Fishkill (see Site survey in **Appendix A** and Site Map in **Appendix B**).

Figure 1: Administrative Offices (Site Entrance)



Originally home to the Matteawan State Hospital, the Site began operation as a correctional facility in 1981. In 1991, it was reclassified to a standard minimum-security correctional facility for women, housing up to 257 female inmates, until it was decommissioned in late 2013 by the Department of Correctional Services and Community Supervision (“DOCCS”) as part of New York State Governor Andrew M. Cuomo’s initiative to decommission a number of facilities to reduce costs and consolidate prison inmates at fewer correctional facilities throughout the State.

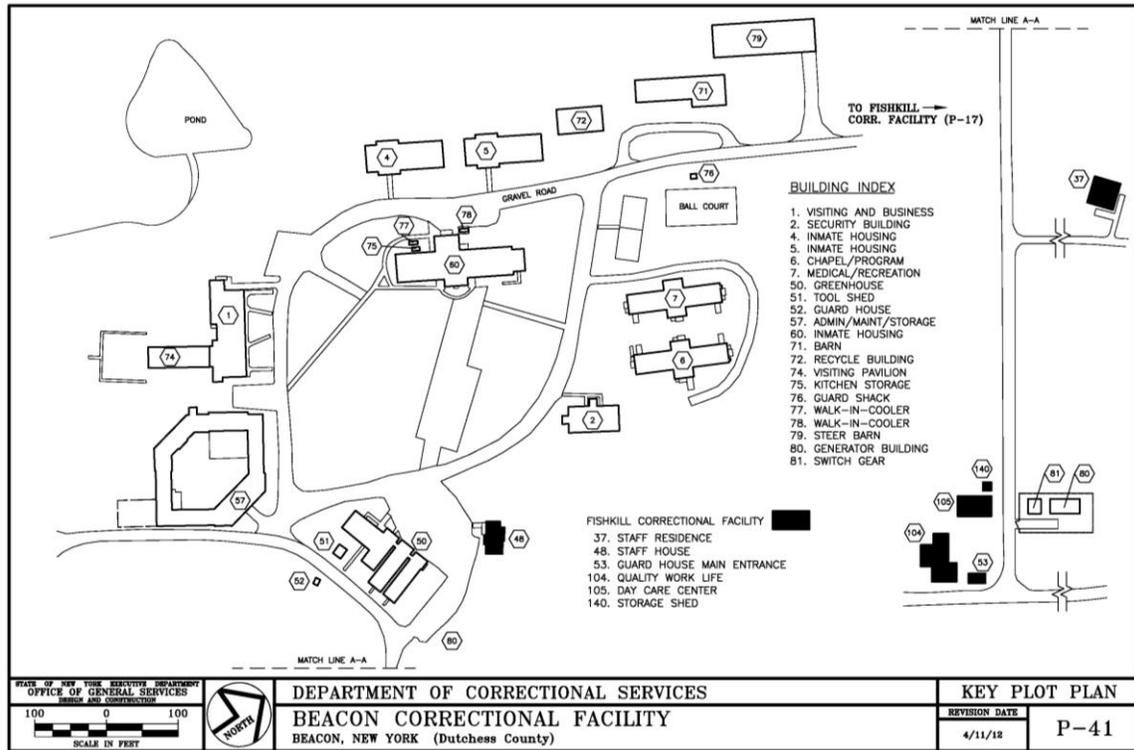
Figure 2: Dormitories



The Site is improved with 22 buildings totaling approximately 109,000 square feet (see Figure 3). There are no perimeter security walls or fences surrounding the Site, giving the Site an open, campus-like feel and setting. The buildings on the Site include former dormitories, greenhouses, barns and miscellaneous support and service buildings, which are connected by an internal network of roads, some paved and some gravel. Of the 22 existing buildings, two in particular lend themselves to adaptive reuse, given

their architectural character and good condition. These are (i) the former administrative office in the southwest portion of the Site, which serves as the entrance to the Site (see Figure 1 and Building 57 in Figure 3); and (ii) a two-story brick dormitory in the north-central part of the Site (see Figure 2 and Building 60 in Figure 3).

Figure 3 – Site Plot Plan



The rest of the Site is generally flat, vacant land, with a gentle upward slope toward the northeast portion of the Site (see Figure 4).

Figure 4 – Site Aerial View



All 22 buildings listed below in Figure 5 are part of this RFP. As shown in **Appendix A**, the Site is part of a larger 45-acre parcel surveyed.

Figure 5 – Property Building List

INDEX NO.	BUILDING	TOTAL SF	NO. OF FLOORS
1	Visiting and business	5,330	1
74	Visiting pavilion	2,800	1
2	Security	2,830	1
76	Guard shack	16	1
52	Guard house	100	1
51	Tool shed	180	1
57	Admin/maint./storage/garage	14,335	2
80	Generator	300	1
81	Switchgear	225	1
72	Recycle center	1,280	1
71	Barn	1,985	4

INDEX NO.	BUILDING	TOTAL SF	NO. OF FLOORS
79	Steer barn	8,100	1
4	Inmate housing #1	7,780	1
5	Inmate housing #2	7,780	1
60	Inmate housing #3	28335	4
6	Chapel/program	8000	1
7	Medical/recreation	8000	1
50	Greenhouse	6,305	2
75	Kitchen storage	80	1
77	Walk-in cooler	300	1
78	Walk-in freezer	180	1
48	Staff House	4,567	3

TOTAL SF	108,808
TOTAL FLOORS	32

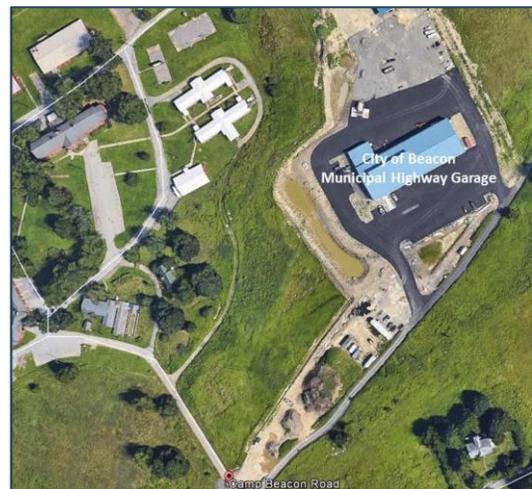
Detailed floorplans for the above buildings can be found in the New York State Office of General Services (“OGS”) Capital Construction Planning Team report (“Blue Book”), included with this RFP as **Appendix C**, and in the DOCCS Beacon Correctional Facility Closure Plan (“Closure Plan”), included with this RFP as **Appendix D**. Please note that the Blue Book and Closure Plan may not contain details on all 22 buildings listed in Figure 5.

In addition, photographs taken by DOCCS of the Site and exteriors and interiors of the Site’s buildings have been provided in **Appendix E** of this RFP.

B. Surrounding Land Uses

Land uses in the immediate vicinity of the Site encompass a range of institutional, residential, light industrial and commercial uses. Institutional uses include the active Fishkill Correctional Facility, located immediately east of the Site, as well as Beacon High School and Rombout Middle School, to the southwest on the north and south sides of Matteawan Road, respectively. A low-density, single-family residential neighborhood lies to the west of the Site, and medium- and high-density single-family uses, a day care center and an affordable multifamily senior housing complex are to the south and southwest, along and across

Figure 6: Beacon Municipal Highway Garage



Matteawan Road. Further south of the Site, light industrial and commercial uses are found along Fishkill Road (NYS Route 52), which provides east-west vehicular access from the Town of Fishkill border to downtown Beacon and NYS Route 9D. The Site is located one mile from Beacon's vibrant Main Street. The nearest public open space is Memorial Park, one of Beacon's main parks and located approximately one mile from the Site.

As shown in **Appendix B** and Figure 6, the adjacent eight acres to the east of the Site are currently in use by the City of Beacon as a municipal highway garage.

Approximately 20 acres west of the Site are also owned by DOCCS and are believed to contain a number of scattered, unmarked graves associated with the former Matteawan State Hospital. All or some of this additional acreage may be available in the future, but at this time, the 20-acre parcel is not included in this RFP.

C. Regional Site Context

The Site is located in Dutchess County in the Mid-Hudson Valley region and straddles the border of the City of Beacon and the Town of Fishkill, which are both part of the Poughkeepsie-Newburgh-Middletown Metropolitan Statistical Area (MSA). The Site is approximately 30 miles west of the New York-Connecticut border, and approximately 1½ hours by automobile (80 minutes by train) north of New York City, 1½ hours south of Albany, and 35 minutes south of Poughkeepsie. In addition, Beacon is approximately one hour north of the Lower Hudson Valley region, where several of the world's largest corporations – including IBM, Mastercard, Pepsico and ITT – are headquartered. The Lower Hudson Valley region boasts a high concentration of high-paying jobs and draws commuters from throughout the greater Hudson Valley region.

In recent years, tourism and hospitality have become important industries in the Mid-Hudson Valley region. The area's abundance of historic sites, natural landscapes and increased lodging options, as well as its proximity to New York City, attract visitors year-round. The United States Military Academy at West Point in Orange County and the Franklin D. Roosevelt estate in Dutchess County bring in several million visitors each year.

Outside of tourism, Dutchess County's top five industries in 2017 in terms of employment distribution were: education and health services; trade; government; and professional and business services.¹ Education and health services is the largest employment sector in the County and experienced the highest compounded annual growth rate of any employment sector from 2008 to 2018.² Educational and healthcare institutions in the region include Bard College, Dutchess Community College, Marist College, Mount Saint Mary College, The Culinary Institute of America, Vassar College, MidHudson Regional Hospital and Vassar Brothers Medical Center.

¹ https://www.bls.gov/regions/new-york-new-jersey/summary/blssummary_dutchess.pdf

² Ibid

D. Local Site Context - Beacon

Up until the 1960s, the City of Beacon served as a regional manufacturing hub, with several brick and hat factories and printing facilities that employed thousands. After a period of economic decline, a commercial and artistic rebirth occurred in the 1990s. In 2003, Beacon saw the opening of one of the world’s largest contemporary art museums, Dia:Beacon. Situated on 31 acres along the Hudson River, Dia:Beacon occupies a former Nabisco box printing plant originally built in 1929. The museum borders 90 acres of riverfront parkland and is a five-minute walk from the Beacon Metro-North train station. Approximately 70,000 people visit Dia:Beacon each year, with 95% of those visitors coming from outside Dutchess County.³

Figure 7: Dia: Beacon



New development continues to catalyze economic activity in Beacon, with the recent openings of the Roundhouse Hotel and the Beacon Institute for Rivers and Estuaries; the construction of over 400 apartment units since 2015; and a rejuvenated Main Street featuring new private art galleries, fine dining restaurants and boutique retail. Throughout the year, local and regional events – such as the Beacon Flea Market, Second Saturday, and the Hudson Valley Shakespeare Festival – draw visitors to the Beacon area.

The City of Beacon has a population of approximately 14,000 residents. Beacon’s population has remained relatively stable since 1980. Like the rest of the County and State, Beacon has seen increases in the size of its senior population, with its median age increasing 2.3 years, from 36.4 to 38.7, between 2000 and 2014. Despite this increase, the median age of Beacon residents is lower than that of Dutchess County residents overall, which was 40.8 in 2014.

From 2000 to 2014, the working age population (aged 18-64) in Beacon rose by almost 5 percent, representing 65.5 percent of the population, ensuring the availability of a large labor force in Beacon. Population forecasts suggest that Beacon will continue its recent trend of attracting highly educated, early stage families and young adults aged 18 to 39 through the next five years. As Beacon’s economy continues to diversify beyond its manufacturing roots, the share of Beacon residents with a college degree or higher is growing: it went from 18.8 percent in 2000 to 30.5 percent in 2014.

³ <https://web.williams.edu/Economics/ArtsEcon/library/pdfs/DiaBeaconSummary.pdf>

For more information on area demographics, please see section 3.1 of the City of Beacon Comprehensive Plan, available at http://cityofbeacon.org/pdf/Beacon_Comprehensive_Plan_Final-040417.pdf.

E. Local Site Context - Fishkill

The Town of Fishkill is located in the southwest part of Dutchess County and surrounds the City of Beacon. As of the 2010 Census, the Town of Fishkill had a population of approximately 23,000 residents. Fishkill is home to Dutchess Stadium, located approximately 0.6 miles north of the Site across Interstate 84 (I-84). With a seating capacity of 4,500 people, Dutchess Stadium serves

Figure 8: Dutchess Stadium



as the home field for three sports teams: (i) the Hudson Valley Renegades minor league baseball team; (ii) Manhattan College’s baseball team; and (iii) the Fall Experimental Football League’s Hudson Valley Fort team. The Stadium also hosts weddings, catered events and concerts, including the K104 annual “KFest” concert in early June.

The Town of Fishkill is also home to a 3.2 million square foot distribution center operated by Gap, Inc. More than 1,500 New Yorkers are employed in full-time and seasonal positions at the facility, which is located six miles east of the Site. Following a devastating fire in August 2016, Gap, Inc. announced plans to rebuild the damaged portion of the distribution center with support from the State.⁴ This \$127 million construction project is currently underway.

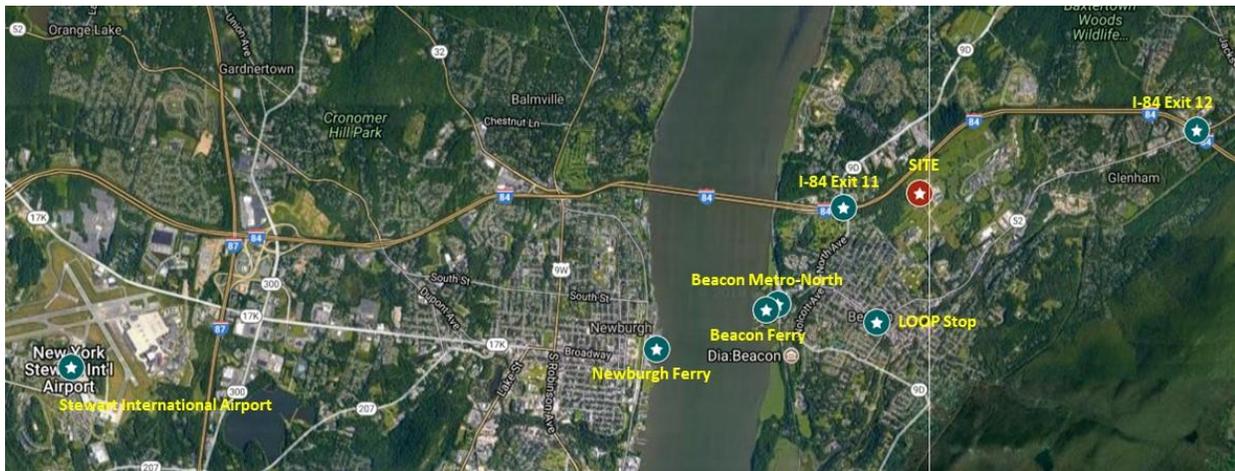
F. Site Access & Regional Transportation Network

The City of Beacon is connected to the Hudson Valley region by I-84, which provides regional connections to the Newburgh Beacon Bridge, the Taconic State Parkway, New York State Thruway and Stewart International Airport, as well as connections further out to Pennsylvania and Connecticut. Several other arterial roads in Beacon link the City to regional economic centers such as Putnam County, Westchester County, and major retail destinations in the area. The City of Newburgh in Orange County is a ten-minute drive via Route 52 and I-84 and is also accessible by ferry service across the Hudson River.

⁴ See <https://www.governor.ny.gov/news/governor-cuomo-announces-gap-inc-opens-fishkill-distribution-center-pop-facility> for more information.

Beacon is also served by several public transit options. The Site is located 2.5 miles away from the Beacon Metro-North railway station, and the nearest bus stop on the Dutchess County public bus system (LOOP) is 1.5 miles away in downtown Beacon. Metro-North Rail provides service to Beacon via the Hudson Line, connecting Beacon to Poughkeepsie to the north and New York City to the south. Connections to Fishkill from Beacon are provided by LOOP. Stewart International Airport, located 11 miles from the Site, is accessible via I-84 and is a 20-minute bus ride from the Metro-North railway station (see Figure 9).

Figure 9: Regional Public Transportation Network



As shown in **Appendix B**, the Site has one vehicular access point, which is from the south, via Camp Beacon Road off Matteawan Road. The Site has strong visibility from I-84, which is located to the north, but there is no direct access to I-84 from the Site. Nearby access to and from I-84 is via Exit 11 or Exit 12, located two and 3½ miles away, respectively. Matteawan Road extends to the east, connecting to Prospect Street, which provides access to Route 52. To the west, Matteawan Road connects to Verplanck Avenue, which provides access to Route 9D and I-84, as well as Fishkill Avenue (Route 52). Further west, Matteawan Road connects to Main Street, the main commercial strip in downtown Beacon.

A secondary road, Back Farm Road, is located to the east of the Site and passes through the Fishkill Correctional Facility Property leading into the Site. DOCCS intends to install security gates on Back Farm Road on the eastern boundary of the Site to restrict access to the Fishkill Correctional Facility.

- **Potential Additional Site Access**

Back Farm Road also connects to an unnamed road (referred to as “Tunnel Road” in **Appendix F**) that leads to an underpass running below I-84 (“Underpass”) and terminates in the Dutchess Stadium parking lot. Tunnel Road and the Underpass are under the jurisdiction and control of DOCCS and NYS Department of Transportation (DOT), while the Dutchess Stadium parking lot is owned by the City of Beacon and leased and maintained by Dutchess County.

Tunnel Road and the Underpass were built for exclusive use by DOCCS to support the Beacon and Fishkill correctional facilities and have never been open to the public. As shown in **Appendix F**, Tunnel Road is a single-lane road, but is not currently maintained. The Underpass is currently closed off by a fence and is also not used. However, Respondents may propose the use of Tunnel Road and the Underpass in their Proposals as an additional Site access point but should be aware that significant challenges and reviews and approvals would be necessary.

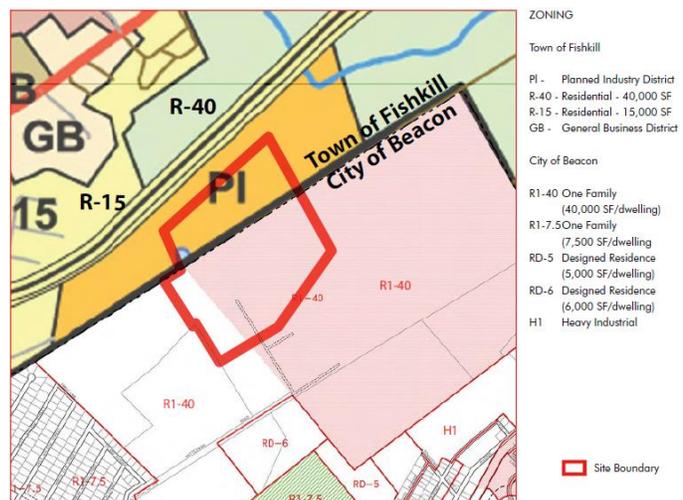
Conversion of Tunnel Road and the Underpass for public access would require significant engineering, real property and security analysis, and approvals by DOT and DOCCS. In addition, use of and circulation within the Dutchess Stadium parking lot would require the review by and approval of the City of Beacon and Dutchess County. Consequently, Respondents may **not** make a Proposal contingent on use of Tunnel Road or the Underpass and should be prepared to move forward with a Proposal without these elements. Respondents are also encouraged to consider non-vehicular and multi-modal use of Tunnel Road and the Underpass, such as bicycle and pedestrian transport.

Regarding additional access from I-84, DOT has advised ESD that I-84 currently does not allow for additional rights of access, and it is unlikely that this would be changed for private development at the Site. The State also does not currently have plans to sell the land between the Site and I-84. Any new exit off I-84 would require the involvement of the Federal Highway Administration (FHA) in addition to DOT and DOCCS, and Respondents may **not** make a Proposal contingent on such.

G. Zoning, Land Use & SEQR Review

The majority of the 39-acre Site is within the City of Beacon’s R1-40 zoning district, as shown below in Figure 10. Permitted principle uses in this zone are detached single-family residences or municipal uses. The portion of the Site that falls within the Town of Fishkill is part of that municipality’s Planned Industry (PI) zone. Permitted uses in this district are executive and administrative offices; scientific research, engineering or design laboratories; industrial, warehousing or manufacturing use; recreation and cultural activities; outdoor storage; and resource extraction, removal and processing.

Figure 10: Local Zoning



In conjunction with the selected Project, the City of Beacon and the Town of Fishkill are expecting to rezone the Site to achieve the Development Objectives and goals of this RFP. In anticipation that zoning changes will be required, the City Council for the City of Beacon and the Town Board for the Town of

Fishkill have both adopted resolutions committing to a coordinated, joint land use development review after a Designated Developer has been selected, in order to expedite the review and approval of requested zoning changes.⁵ As such, Proposals are not required to comply with current zoning and should identify any proposed zoning changes necessary to realize a Project that will maximize economic impact and community benefits and generate new jobs for residents of the surrounding communities.

The disposition of the Site and implementation of the Project will also require an environmental review under the State Environmental Quality Review Act (“SEQRA”) and its implementing regulations. The two municipalities have agreed via the aforementioned resolutions to a joint environmental review process in addition to a joint zoning and land use review process. SEQRA review is expected to be led by the two municipalities and coordinated with ESD as an involved agency. More information about the environmental review process can be found in **Section VIII: Disposition Process**.

H. Environmental Conditions

Phase I and Phase II Environmental Site Assessments are included as **Appendix G and H** to this RFP, respectively. The findings of the Phase II assessment concluded that no further environmental remediation or mitigation actions need be performed on the Site.

- **Site Infrastructure**

As described previously, the Site contains 22 buildings that were former dormitories and miscellaneous support and service buildings, with a total interior floor area of approximately 104,000 square feet. The Site’s utility services and building systems have been decommissioned. The OGS Facility Decommissioning Report (“Decommissioning Report”) is attached as **Appendix I** to this RFP, which includes asbestos sampling and abatement documentation in Appendix D of the Decommissioning Report that was completed as part of the decommissioning work. Additional asbestos reports for certain buildings at the Site are attached to this RFP as **Appendix J**.

Respondents should assume that costs for any further hazardous materials investigation and remediation will be borne by the Respondent. Please note that inspection and/or remediation work for hazardous materials at the Site is an eligible capital purpose for SAM funding.

The Site receives potable water from the Fishkill Correctional Facility via a line coming through a meter located on Camp Beacon Road. Proposals should include installation of an upgraded water supply system connected to this water main.

⁵ See <http://agenda.cityofbeacon.org/CoverSheet.aspx?ItemID=5248&MeetingID=406> for City of Beacon Resolution adopted on August 20, 2018 and http://fishkilltownny.igm2.com/Citizens/Detail_Meeting.aspx?ID=1525 for Town of Fishkill Board Resolution adopted on September 5, 2018.

The sanitary sewer system at the Site consists of underground piping, grinder, manholes and a grease trap. Sewage is collected through pipes and manholes and routed to the City of Beacon wastewater treatment plant just east of the Hudson River and north of Fishkill Creek. This facility receives all of the wastewater produced in Beacon and the Dutchess Park area of Fishkill.

The Site is also served by underground storm sewer piping, manholes and catch basins located throughout the compound.

In 2012, DOCCS commissioned a study (“I/I Study”) in response to concerns about possibly leaking pipes and manholes at the Site that would introduce storm water into the municipal septic system. The I/I Study, which is attached as **Appendix K**, identified necessary pipe, manhole and other structural repairs at the Site. DOCCS began the first phase of these storm water repair projects this year, with an estimated completion date of summer 2019. If this work is not completed prior to disposition of the Site, DOCCS will enter into a temporary access agreement with the Designated Developer.

Existing outdoor lighting at the Site consists of exterior building mounted lighting, free-standing pole lighting, and lighting attached to overhead power poles.

Electrical service for the Site is supplied by Central Hudson Gas and Electric (CHG&E). Power is received from the utility at 13,200 Volts 3 phase and is distributed to pad- and pole-mounted transformers around the Site through a combination of underground and overhead lines. The voltage of each building is 120/208 V. The main electrical service to the Beacon Correctional Facility also provides power to the Fishkill Correctional Facility Quality of Work Life (QWL) and daycare center buildings on Camp Beacon Road at Matteawan Road. The combined electric meter for all three facilities is located on a pole on the grounds of the QWL building. An emergency electrical generator that serves the Site is located on the eastern side of Camp Beacon Road. This generator is included in the RFP disposition.

There is no natural gas at the Site. In addition, there are no known underground storage tanks.

More information about Site Infrastructure can be found in the Closure Plan (**Appendix D**) and Decommissioning Report (**Appendix I**).

- **Topography**

Most of the Site is relatively flat, but there is a gentle upward slope toward the northeast portion of the property, to approximately 180 feet, which affects storm water runoff conditions both on- and off-site (see Figure 11).

Figure 11: Highest Point of RFP Site



- **Natural Resources**

Most of the Site does not contain significant natural resources. However, there are several wetland areas that, while not regulated by the New York State Department of Environmental Conservation (“DEC”), may be under U.S. Army Corps of Engineers and/or City of Beacon jurisdiction. The property is also distinguished by a number of mature specimen trees.

The Site is not located within a mapped 100- or 500-year floodplain, but there is a history of flooding in the vicinity due to storm water management issues. A Federal Emergency Management Agency (“FEMA”) floodplain map for the Site is included as **Appendix L** of this RFP.

- **Archaeological and Historic Resources**

The State Historic Preservation Office (“SHPO”) of the New York State Office of Parks, Recreation and Historic Preservation has determined that none of the buildings on the Site are historically significant or eligible for listing on the National or State Registers of Historic Places. However, the Site falls within the City of Beacon’s locally designated Historic District and Landmark Overlay Zone, and therefore the Project may require a certificate of appropriateness from the City of Beacon’s Planning Board. In addition, as described previously, at least two buildings on the Site (the two-story brick dormitory and the former stable) have architectural character, and adaptive reuse is encouraged if viable.

Regarding archaeological resources, SHPO has issued a “No Impact” recommendation for the Site, meaning that no archaeological evaluation will be necessary as part of future development at the Site.

I. Ownership and Taxes

The Site is currently owned by the State and is exempt from property taxes. For purposes of this RFP, Respondents should assume that once the Site is sold for private reuse, it will be subject to property taxes assessed by the City of Beacon and the Town of Fishkill.

J. Economic Development Incentives

As noted above, the State expects to make no more than, but not necessarily up to, \$6 million in State and Municipal Facilities Program funding available to fund projects of capital purpose on the Site.

As the State’s chief economic development agency, ESD is also responsible for the oversight and implementation of a variety of other economic development incentive programs. Receipt of State and Municipal Facilities funds will not necessarily preclude a Respondent from pursuing other ESD or State programs (e.g., Excelsior Jobs Program). A list of such programs includes, but is not limited to, those on the following webpage: <http://www.esd.ny.gov/BusinessPrograms.html>.

- **Opportunity Zone**

As referenced in the Introduction, the Site is located in a federal Opportunity Zone (“OZ” or “OZs”). The Opportunity Zones program was established by Congress in the 2017 Tax Cut and Jobs Act as an innovative approach to spur long-term private sector investments in low-income urban and rural communities nationwide by providing tax incentives to investors. The program has two primary components: Opportunity Zones and Opportunity Funds.

OZs are drawn from eligible low-income census tracts (“LIC” or “LICs”) in the State. LICs are generally characterized as a census tract with income at or below 80 percent of area median income (“AMI”), or poverty greater than 20 percent. An OZ Designation for an LIC will stay in place for 10 years.

Opportunity Funds are an investment vehicle organized as a corporation or partnership for the purpose of investing in OZ properties or businesses located in OZs. Investors may defer taxes on capital gains and in some cases receive a reduction or elimination of taxes on capital gains from the sale or exchange of property by investing in an Opportunity Fund. In turn, Opportunity Funds are required to invest at least 90 percent of their resources in OZs. The fund model will enable a broad array of investors to pool their resources in OZs, increasing the scale of investments going to underserved areas.

More information about Opportunity Zones can be found at <https://esd.ny.gov/opportunity-zones>.

K. Additional Site Information

A substantial amount of additional information on the Site can be found in the materials appended to or cited in this RFP, including the Blue Book, Closure Plan, Decommissioning Report, Beacon Comprehensive Plan and other materials. Other documents and resources Respondents may wish to review for additional context on local needs and priorities include:

- The “Beacon Correctional Facility Redevelopment Market and Financial Feasibility Study,” prepared for ESD in 2014 and included in this RFP as **Appendix M** (but please note Respondents should refer only to this RFP to understand the State’s objectives and requirements for this RFP)
- As previously mentioned in the Introduction, the promotional video created by ESD, featuring highlights of the Site and surrounding area: <https://wdrv.it/24805c806>
- An informational video created by OGS highlighting Site photos and features: <http://www.youtube.com/watch?v=XSb96YbT1oY&feature=youtu.be>
- Mid-Hudson Region Economic Profile published by the Office of the New York State Comptroller: <https://www.osc.state.ny.us/localgov/pubs/economicprofile/midhudsonregion.pdf>

- Town of Fishkill Comprehensive Plan:
http://www.fishkill-ny.gov/uploads/3/8/0/7/38072219/tof_comprehensive_plan_-_adopted_9-23-09.pdf
- Mid-Hudson Region Sustainability Plan: <http://hudsonvalleyregionalcouncil.org/mid-hudson-regional-sustainability-plan/>
- Moving Dutchess (Countywide Transportation Plan):
http://www.dutchessny.gov/ConCalAtt/67/Moving%20Dutchess%202020_Cover%20&%20Table%20of%20Contents_03252016248.pdf
- Dutchess County Transit Development Plan:
<http://www.co.dutchess.ny.us/CountyGov/Departments/TransportationCouncil/12709.htm>
- Dutchess County Greenway Connections Plan:
<http://www.co.dutchess.ny.us/CountyGov/Departments/Planning/17334.htm>
- Mid-Hudson Region Economic Development Council Strategic Plan:
https://regionalcouncils.ny.gov/sites/default/files/2017-11/MHREDCSPFINAL11_12_11.pdf

IV. DEVELOPMENT OBJECTIVES

The primary development objectives for the Project are to maximize economic benefit to the City of Beacon, the Town of Fishkill and the State through reuse and redevelopment of the Site in ways that advance the creation of new jobs, provide job training opportunities, stimulate the local economy, and integrate the Site into the local community. ESD is thus seeking Proposals for a commercial or mixed-use development that meets the following goals (“Development Objectives”).

- Enhance the Site as an economic engine for the surrounding municipalities, the Hudson Valley region and New York State
- Provide new job opportunities for local residents
- Provide youth and/or adult job training and workforce development opportunities
- Present a financially feasible project that demonstrates realistic financing and revenue sources to support operations and scheduled payments
- Exhibit well-considered planning and design principles
- Incorporate sustainable and green building practices

- Ensure meaningful participation of Minority Owned Business Enterprises (“MBE”), Women Owned Business Enterprises (“WBE”) and Service-Disabled Veteran-Owned-Businesses (“SDVOB”)

Proposals may include residential uses (single- or multi-family housing) as part of a mixed-use development, but preference will be given to Proposals in which residential development is not the majority use of the Site.

Respondents are encouraged to be sensitive to traffic management in their Proposals and may wish to include a statement of measures to be taken to reduce the traffic impacts of the Project.

The Development Objectives will be effectuated through an ESD General Project Plan (“GPP”) for the Site and a restrictive declaration ensuring compliance therewith.

Preference will also be given to Proposals with a single Respondent or Respondent Team and a thoughtful master plan for the entire Site that ensures build-out (and phasing, if any) within a reasonable timeframe.

V. REQUIRED PROPOSAL CONTENTS

The following must be submitted with all Proposals. ESD reserves the right, in its sole discretion, to reject any Proposal that is deemed incomplete or nonresponsive to the RFP requirements. ESD also reserves the right, in its sole discretion, to reject any and all Proposals, and to proceed (or not proceed) with the development of the Site without completing this RFP process.

In evaluating the capabilities of Respondents, ESD may use any and all information available, including information not provided by Respondents. Proposals should clearly and concisely state the unique capabilities, experience, and advantages of the Respondent and demonstrate the Respondent’s capability to satisfy the requirements and objectives set forth in this RFP. ESD further reserves the right to ask additional written or oral clarifying questions to all Respondents or to a subset of Respondents.

In addition to the forms required as described in **Section XI: Procurement Forms and Requirements**, each Proposal must contain the following elements:

A. Transaction Structure and Costs

Respondents must provide an offer price (“Purchase Price”) for the acquisition of the fee title to the entire Site (inclusive of land and improvements), subject to a restrictive declaration requiring development of the Site to conform to the GPP. It is intended that the Site will be conveyed to the Designated Developer at closing, and that the Designated Developer will hold title during development of the Site; however, ESD will consider Proposals that contemplate a lease through construction.

The Purchase Price must be expressed in a fixed, non-contingent dollar amount. Under a purchase scenario, transfer of title will be by quit-claim deed (without any representations or warranties) at the closing, and the Designated Developer will be required to pay the entire Purchase Price at closing.

Although ESD is requesting Proposals for purchase of the Site, ESD reserves the right to request revised Proposals that reflect a lease of the land only, or a sale or lease of all or a portion of the Site, or a combination thereof. ESD reserves the right to make such requests to all Respondents or to a subset of all Respondents as set forth in **Section VI: Selection Criteria**. The determination of whether ESD will elect to dispose of the Site by sale, lease, or a combination thereof will depend on the offers received, ESD's obligations to comply with federal tax rules applicable to tax-exempt bond financing, and ESD's assessment of the best interests of the State. Any Respondents still under consideration shall be given the opportunity to revise their Proposals, and any related provisions of the RFP will be amended or deemed amended as necessary.

The Designated Developer will be required to enter into an agreement with ESD ("Development Agreement") that provides the terms for developing the Site in compliance with the proposed development plan and the Project's proposed phasing, if any.

As noted below in **Section VIII: Disposition Process**, in order to implement the Project and dispose of the Site, ESD, with the cooperation of the Designated Developer, must comply with legal and regulatory requirements, including but not limited to: (i) SEQRA; (ii) the State Historic Preservation Act, to the extent applicable; (iii) the State's Coastal Management Policies, to the extent applicable; (iv) Public Authorities Law; (v) State Finance Law; (vii) New York State Urban Development Corporation Act ("UDC Act"); and (viii) any actions required to remediate any tax-exempt bonds used to finance the original acquisition and improvement of the Site. Such compliance must be completed before disposition of the Site to the Designated Developer for the Project. ESD may also consult with or otherwise involve other State entities as necessary to review the RFP and select the Designated Developer. Please also note that the Designated Developer must enter into agreements with ESD that will require the Designated Developer to pay, from the date of its conditional designation, ESD's out-of-pocket costs and expenses incurred in connection with the Project and the disposition to the Designated Developer of the Site, including, without limitation, costs and expenses of ESD's third party consultants and legal counsel (see "**Other Transaction Considerations**" section below).

A Respondent's financial offer for the Site should assume that the Site, including any and all improvements, infrastructure and equipment at the Site, will be conveyed "AS IS" and "WHERE IS" without any representation, warranty, or guaranty as to quantity, quality, title, character, condition, size, or kind, or that the same is in condition or fit to be used for the Designated Developer's purpose.

B. Other Transaction Considerations

Respondents must provide as part of their Proposals a signed letter agreement (the “Cost Letter” or “Cost Agreement”) in the form provided in **Appendix N**, pursuant to which the Respondent will pay ESD for ESD’s reasonable out-of-pocket costs and expenses, including without limitation those for consultants and legal counsel, incurred by ESD in the event that the Respondent is selected as the Designated Developer. Upon conditional designation to enter into negotiations with ESD, the Designated Developer must deliver to ESD a check in the amount of **\$100,000**, which will be deposited into an ESD imprest account (“Imprest Account”). ESD will draw on the Imprest Account in order to pay such costs related to the Project. The Cost Letter provides that the Designated Developer will replenish the Imprest Account in a timely manner as necessary upon notice by ESD.

C. Respondent Description and Qualifications

Each Respondent submitting a Proposal must demonstrate sufficient financial resources and professional ability to develop the Site in a manner consistent with its Proposal.

Each Proposal must include a description of the Respondent or, if applicable, development team (“Respondent Team”), including:

- Identification (name, address, phone number and email) and qualifications of each member of the Respondent Team, including all persons or entities that will design, develop, or operate the Project, as well as any attorneys, engineers, general contractor and other professionals, as appropriate, including leasing and management, who will be involved with this Project;
- Federal EIN numbers of the Respondent, and identification and contact information for a primary contact person;
- The intended form and structure of the Respondent Team and any proposed partnership or joint venture, including a chart/diagram showing percentages of ownership and investment;
- A description of the relevant experience of all principal members of the Respondent Team, including comparable projects by each that have been completed or are under construction (see below for details);
- A summary of the availability of each of the principal members of each firm and their commitment to the Project;
- Previous three (3) years of audited financials for all entities with an ownership percentage in the Project;

- Details of any credit rating and/or credit reports for principal members/entities of the Respondent Team;
- Documentation addressing whether the Respondent or any member of the Respondent Team has been involved in any litigation or legal dispute regarding a real estate venture during the past five (5) years;
- Evidence of ability to finance the Project, including letters of interest and/or intent from equity sources and lenders;
- Evidence of Respondent's commitment to pay, from the date of conditional designation, ESD's out-of-pocket costs and expenses incurred in connection with the Project and the disposition to the Designated Developer of the Site, including, without limitation, costs and expenses of consultants and legal counsel;
- Evidence of Designated Developer's commitment to pay the full purchase price for the Site at closing;
- Any additional documentation or information evidencing the strength of the Respondent Team and its ability to complete the Project as proposed in a timely manner;
- Disclosure of any existing or contemplated relationship with any other person or entity, including relationships with any parent, subsidiary or affiliated firm, that would constitute an actual or potential conflict of interest in connection with Respondent's Proposal, selection as the Designated Developer, or completion of the Project. Respondents must also indicate how they will notify ESD if a conflict arises at any point after the submission of their Proposal and how such a conflict would be resolved; and
- All required forms identified in **Section XI: Procurement Forms and Requirements** of this RFP.

For any comparable projects included in Respondent's Proposal, the following information is requested:

- Name of Respondent Team member
- Project name
- Current status of project/completion date or anticipated completion date
- Project description
- Location
- Total Development Cost
- Reference (name, email, telephone number)
- Relevance to RFP

Information provided by references may be used by ESD for proposal evaluation purposes. ESD may seek additional information from references regarding subjects that include, but are not limited to, the quality of services provided, anticipated ability to perform the services required by this RFP, and responsiveness of Respondent to the client during the engagement. ESD reserves the right to decide, at its sole discretion, the method of communication by which it will contact references.

D. Project Description

Each Proposal should include a detailed narrative describing all relevant aspects of the Project and timing of any proposed phasing (“Project Description”). The Project Description should address:

- Proposed development program and use(s);
- Type, height, bulk and size (gross and net square footages) of each component of the development program;
- A list of potential tenants and any letters of interest and/or intent from potential tenants;
- Total Development Cost;
- Estimated number of direct and indirect permanent and construction jobs to be created by the Project; and
- A statement of the way(s) in which the Project will advance the RFP’s Development Objectives.

E. Site Plan and Architectural Design

Each Proposal must include:

- A summary of the proposed building program for the Project, with gross and net square footages and heights for each use and structure;
- At a minimum, a set of concept sketches of the proposed Project and a set of schematic renderings of the proposed Project showing the principle elevations and massing, floor plans for each use, streetscape and landscape plans, entry feature and signage;
- Diagram(s) showing vehicular and pedestrian circulation within the Site;
- A description of the proposed exterior materials and other relevant specifications;
- A description of sustainable features and green building practices that will be incorporated into the Project during construction and operation; and

- A description of specific noteworthy features that will be preserved, as well as any demolition and significant building modifications or enhancements.

F. Zoning Calculation

Respondents must submit a preliminary zoning analysis showing all calculations, including proposed use groups, and proposed parking. Respondents must identify all desired zoning changes, if any, and any required permits and authorizations to effectuate the Project. Please see **Section III: Site Description and Context, Zoning** for further information about zoning.

G. Development Timeframe

Respondents must submit a development timeline (including phasing, if applicable), identifying the estimated length of time to reach key milestones, including: commencement and completion of demolition; commencement and completion of design; financing; commencement and completion of construction; tenant lease-up; and operational stabilization for each component of the development program. Any contingencies that may affect this timeline should be identified.

H. Flood Zones

Proposals should identify any flood zones and note how Respondent will meet Federal Emergency Management Agency (FEMA) guidelines as necessary.

I. Financing Summary and Project Pro Forma Statements

Respondents must submit a 20-year pro-forma statement, provided in Excel and “live-linked,” including:

- Statement of assumptions on which all calculations are based;
- Sources and uses of funds;
- Construction and operational budgets;
- Detailed description of proposed equity investment and construction and permanent financing, including a detailed breakdown of all sources of equity and debt financing; and
- Letters of interest and/or intent from lenders and, if applicable, equity investors.

In addition, Respondents should include a brief summary that explains at a high level how the Respondent Team would approach the financing of the Project, including reference to any expected incentives or tax credit programs. If a Proposal is contingent on receiving financing or incentives, the Respondent should include proposed terms and assumptions for such financing in its Proposal.

J. Procurement Forms and Requirements

Respondents must complete and submit the items listed below. Failure to submit any of the requirements below may result in the rejection of a Respondent's Proposal.

- a. [State Finance Law §§139-j and 139-k forms](#) (submit with Proposal)
- b. [Vendor Responsibility Questionnaire](#) (submit with Proposal or submit online and include copy of submitted form with Proposal)
- c. Iran Divestment Act Statement (submit with Proposal)
- d. Non-Discrimination and Contractor & Supplier Diversity Requirements (submit with Proposal)
 - i. [OCSD-1 - MWBE and SDVOB Participation / EEO Policy Statement](#)
 - ii. [OCSD-2 - Staffing Plan](#)
 - iii. [OCSD-4 – MWBE and SDVOB Utilization Plan](#)
- e. [Encouraging the Use of NYS Businesses in Contract Performance Form](#) (submit with Proposal)
- f. Diversity Practices Questionnaire (submit with Proposal)
- g. Certification under State Tax Law Section 5-a [220-CA](#) or [Affidavit](#) (submit with Proposal)
- h. [W-9 Form](#) (submit with Proposal)
- i. Executive Order 177 Certification (submit with Proposal)

Additional information about these items, and ESD's procurement requirements, can be found in **Section XI: Procurement Forms and Requirements.**

VI. SELECTION CRITERIA

ESD shall establish a review committee to evaluate Proposals. When evaluating Proposals, the following criteria ("Selection Criteria"), with the accompanying weightings, will be used to calculate an overall Proposal score.

Proposals will be reviewed by ESD and possibly other State officials. The sale of the Site is subject to approval of the ESD Board of Directors, the Commissioner of the Office of General Services ("OGS"), the Public Authorities Control Board ("PACB"), the Comptroller of the State of New York ("OSC"), and the New York State Attorney General ("AG").

Criteria		Weighting
Development Concept and Program	<ul style="list-style-type: none"> Proposed development concept’s overall quality, design and program of uses Coherence and conformity to the Development Objectives 	30%
Respondent Qualifications	<ul style="list-style-type: none"> Experience, financial capabilities and qualifications of the Respondent to develop, finance, operate and manage projects of similar size and nature 	20%
Financial Offer	<ul style="list-style-type: none"> Financial feasibility of the Project Competitiveness of the proposed financial terms and benefits to New York State, including maximizing Purchase Price and minimizing State subsidy 	20%
Community Benefits	<ul style="list-style-type: none"> Direct benefits to the surrounding communities, including but not limited to: economic impacts, job creation, and job training and/or workforce development opportunities 	15%
Project Timing and Design	<ul style="list-style-type: none"> Proposed Project development and construction timeline Innovative technical solutions to enhance design, construction and/or operations/management Incorporation of sustainable building practices 	10%
Diversity	<ul style="list-style-type: none"> Respondent’s Diversity Practices, as evidenced by the contents of the Diversity Practices Questionnaire (see Appendix O) 	5%

ESD reserves the right to conduct interviews with or pose questions in writing to individual Respondents in order to clarify the content of Respondents’ Proposals and to ensure a full and complete understanding of each Proposal. ESD shall undertake to pursue uniformity in the questions it asks Respondents to the extent practicable, but ESD may ask different or additional questions to different Respondents in the context of any individual interview or in writing. ESD reserves the option to hold oral interviews as part of the selection process; Respondents who are invited for an interview will receive additional instructions upon their invitation.

ESD anticipates that a single Respondent will be conditionally designated based upon the evaluation committee’s determination of the best Proposal for the State.

VII. DEVELOPER DUE DILIGENCE

Respondents should assume that the Site, including land, improvements, and any supporting building infrastructure, will be disposed of “AS IS” and “WHERE IS” without representation, warranty, or guaranty

as to quantity, quality, title, character, condition, size, or kind, or that the same is in condition or fit to be used for the Respondent's purpose.

ESD will post information regarding the RFP on the ESD website (<https://esd.ny.gov/doing-business-ny/requests-proposals>); Respondents are encouraged to check for updates. Prospective Respondents should notify ESD of their interest as soon as possible in order to ensure that they receive all updates associated with this RFP by sending an email to BeaconCF@esd.ny.gov.

Respondents must rely solely on their own independent research and investigations for all matters, including, costs, title, survey, development, financing, construction, and remediation, and should not rely on the information provided in connection with this RFP. ESD makes no representation or warranty concerning the accuracy or utility of information posted or otherwise provided to potential or actual Respondents.

VIII. DISPOSITION PROCESS

After a review of the Proposals, ESD intends to conditionally designate one Respondent as the Designated Developer. The Designated Developer and ESD will sign a non-binding term sheet regarding key aspects of the Project and disposition of the Site, and the Designated Developer will enter into agreements with ESD and possibly other State agencies regarding payment by the Designated Developer of costs and expenses as described at the end of **Section V: Required Proposal Contents, Transaction Structure and Costs**.

In implementing the Project, including the disposition process, ESD will ensure completion of an environmental review of the Project in accordance with SEQRA. As noted in **Section III-G** above, the environmental review is expected to be conducted jointly by the City of Beacon and the Town of Fishkill, with ESD as an involved agency. The environmental review process may take up to twenty-four (24) months from the commencement of the public review process, depending upon the complexity of the Project.

IX. PROPOSAL SUBMISSION INSTRUCTIONS

A. Proposal Submission

Seven (7) hard copies of the Proposal and one (1) electronic copy on a flash drive, identified as “Beacon CF RFP - 2018,” must be received by ESD by **December 20, 2018, 12:00 PM EST** at the following address:

Empire State Development
633 Third Avenue, 35th Floor
New York, NY 10017
Attn: John Discolo, ESD Procurement Unit
Re: Beacon CF RFP - 2018

It is the responsibility of each Respondent to ensure timely submission of its Proposal. Proposals received after the scheduled date and time cannot be accepted.

Respondent accepts all provisions of this RFP by submitting a Proposal and is responsible for the accuracy of its submission.

ESD reserves the right, in its sole discretion, to withdraw or modify this RFP and to reject any Proposal as being non-responsive.

B. RFP Inquiries

ESD will accept written questions via email from prospective Respondents up to and no later than **October 19, 2018, 12:00 PM EST**. Please submit questions to: BeaconCF@esd.ny.gov

Written questions must include the requestor’s name, e-mail address and the prospective Respondent represented. Responses to all timely and appropriate questions will be posted on ESD’s website on or about **October 29, 2018** at: <https://esd.ny.gov/doing-business-ny/requests-proposals>.

If a Respondent discovers any ambiguity, conflict, discrepancy, omission or other error in this RFP, notification should be sent via email requesting clarification or modification. Should ESD find it necessary, an addendum to this RFP will be posted on the ESD website.

Other than emails to the designated email account for this RFP, which is BeaconCF@esd.ny.gov, no contact related to this RFP with ESD Board members, ESD staff or consultants, or any other State governmental entity (except members of the State Legislature and their staff) is permitted by Respondents or employed representatives of Respondent Team during the procurement period of this RFP. Any such contact by a Respondent will be grounds for disqualification.

C. Site Visit

An optional Site Visit is scheduled for **October 11, 2018**. Respondents who wish to attend must RSVP to BeaconCF@esd.ny.gov on or before **October 9, 2018, 5:00 PM EST**. When signing up to attend, please provide the name of the Respondent, and the name, title, telephone number and email address of all representatives who are attending. ESD reserves the right to limit the number of visitors on the Site visit and to require procedures as necessary to ensure the safety and security of visitors.

ESD reserves the right to modify this RFP schedule at its discretion. Notification of changes in connection with this RFP will be made available to all interested parties by e-mail and via ESD's website: <https://esd.ny.gov/doing-business-ny/requests-proposals>.

X. STATEMENT OF LIMITATIONS

The RFP submissions from Respondents, and any relationship between ESD and Respondents arising from or connected or related to this RFP, are subject to the specific limitations and representations expressed below, as well as the terms contained elsewhere in this RFP.

1. By responding to this RFP, Respondents are deemed to accept and agree to this Statement of Limitations. By submitting a response to this RFP, the entity acknowledges and accepts ESD's rights as set forth in the RFP, including this Statement of Limitations.
2. The issuance of this RFP and the submission of a Proposal by any firm or the acceptance of such Proposal by ESD does not obligate ESD in any manner whatsoever with regard to development of the Site. ESD shall only incur such obligations upon execution of a formal contract by ESD and the Designated Developer.
3. ESD reserves the right to: (i) amend, modify, or withdraw this RFP; (ii) revise any requirements of this RFP; (iii) require supplemental statements or information from any Respondent; (iv) accept or reject any or all Proposals; (v) extend the deadline for submission of Proposals; (vi) negotiate or hold discussions with any Respondent and correct deficient Proposals that do not completely conform to the instructions contained herein; and (vii) cancel, in whole or part, this RFP, for any reason or for no reason. ESD may exercise the foregoing rights at any time without notice and without liability to any Respondent or any other party for its expenses incurred in the preparation of responses hereto or otherwise. Proposals will be prepared at the sole cost and expense of each Respondent.
4. All information submitted in response to this RFP, including accompanying documents, is subject to the Freedom of Information Law (FOIL) found in Article 6 of the N.Y. Public Officer Law. FOIL provides that certain records are exempt from disclosure, including those that contain (1) trade secrets, (2) information that, if disclosed, would cause substantial injury to the competitive position of Respondent, or (3) critical infrastructure information. Respondents should identify

portions of their Proposals and accompanying documents they believe fall under these exemptions by submitting their Proposals in both redacted and un-redacted form. Records may be redacted to protect only the portions of documents that fall within a FOIL exemption. An entire document may not be withheld if only a portion of the document is exempt from disclosure. Along with the redacted version, Respondents may provide a detailed justification for the portions of their Proposal they believe fall into the exemptions discussed above. Blanket assertions that information is a trade secret, confidential, or proprietary are insufficient to justify withholding information under FOIL. The identified information will be reviewed and a determination will be made as to whether the information is exempt from disclosure under FOIL. ESD's determination may be appealed pursuant to POL §89(5)(c). Please note that if Respondents do not submit a redacted version, their Proposals may be released in un-redacted form if requested under FOIL.

5. ESD reserves the right, in its sole discretion, without liability, to utilize any or all Proposals, including late responses, in its planning efforts. ESD reserves the right to retain and use all the materials and information, and the ideas, suggestions therein, submitted in response to this RFP (collectively, the "Proposal Information") for any purpose. Each Respondent must grant an unconditional and perpetual license without charge to ESD to use any copyright or other legally protected rights in and to the Proposal Information. By submitting a Proposal, each Respondent waives any and all claims against ESD relating to the retention or use of the Proposal Information.
6. This RFP shall not be construed in any manner to implement any of the actions contemplated herein, nor to serve as the basis for any claim whatsoever for reimbursement of costs for efforts expended in preparing a Proposal. ESD will not be responsible for any costs incurred by Respondents related to preparing and submitting a Proposal in response to this RFP, attending oral presentations, or for any other associated costs.
7. To the best of ESD's knowledge, the information provided herein is accurate. Respondents should undertake appropriate investigation in preparation of Proposals.
8. Should ESD determine that negotiations with a Designated Developer will not result in an executable contract, ESD may begin negotiations with a different Respondent without again requesting Proposals.

XI. PROCUREMENT FORMS AND REQUIREMENTS

This section contains additional information about the forms that are required to be included in each Respondent's Proposal pursuant to **Section V** of this RFP, as well as information about ESD's procurement requirements.

A. State Finance Law Sections 139-j and 139-k forms

State Finance Law Sections 139-j and 139-k (collectively, the “Procurement Requirements”) apply to this RFP. These Procurement Requirements: (1) govern permissible communications between potential Respondents and ESD or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP. Compliance with the Procurement Requirements requires that all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the “Restricted Period”), be conducted only with Designated Contacts; the completion by Respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESD web site under “RFPs/RFQs”); and periodic updating of such forms during the term of any contract resulting from this RFP.

Respondents must submit the Offerer Disclosure of Prior Non-Responsibility Determinations and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law as part of their Proposal. Copies of these forms are available at:

http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf.

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by Respondents during the Restricted Period, make a determination of the responsibility of Respondents and make all such information publicly available in accordance with applicable law. If a Respondent is found to have knowingly and willfully violated the State Finance Law provisions, that Respondent and its subsidiaries, related or successor entities will be determined to be a non-responsible Respondent and will not be awarded any contract issued pursuant to this RFP. In addition, two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State governmental procurement contract.

This is not a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at:

http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2007.pdf.

All potential Respondents are solely responsible for full compliance with the Procurement Requirements. All members of a Respondent Team, including consultants, must complete the forms required above.

B. Vendor Responsibility Questionnaire

All Respondents to this RFP must be “responsible,” which in this context means that they must have the requisite financial ability, organizational capacity and legal authority to carry out its obligations under this RFP, and in addition must demonstrate that the Respondent and Respondent Team principals have and will maintain the level of integrity needed to contract with New York State entities such as ESD. Further, the Respondent must show satisfactory performance of all prior government contracts. Accordingly, the contract to be entered into between ESD and the Respondent, if any, shall include clauses providing that the Respondent remain “responsible” throughout the term of any contract, that ESD may suspend the contract if information is discovered that calls into question the responsibility of the contracting party, and that ESD may terminate the contract based on a determination that the contracting party is non-responsible. On request, model language to this effect will be provided to any Respondent to this RFP.

To assist in the determination of responsibility, ESD requires that all Respondents register in the State's Vendor Responsibility System (“Vend-Rep System”). The Vend-Rep System allows business entities to enter and maintain their Vendor Responsibility Questionnaire information in a secure, centralized database. New York State Procurement Law requires that State agencies award contracts only to responsible vendors. Respondents are to file the required Vendor Responsibility Questionnaire online via the Vend-Rep System or may choose to complete and submit a paper questionnaire. Respondents should include a copy of their Vend-Rep submission receipt or paper questionnaire in their Proposals.

To enroll in and use the Vend-Rep System, Respondents should consult the System Instructions available at www.osc.state.ny.us/vendrep or go directly to the Vend-Rep system online at <https://portal.osc.state.ny.us>. For direct Vend-Rep System user assistance, the Office of the State Comptroller's Help Desk may be reached at (866) 370-4672 or (518) 408-4672 or by email at helpdesk@osc.state.ny.us.

Respondents opting to file a paper questionnaire can obtain the appropriate questionnaire from the Vend-Rep website (http://www.osc.state.ny.us/vendrep/forms_vendor.htm) and execute accordingly pertaining to the company's trade industry. Per the Vend-Rep website, Respondents are to “Select the questionnaire which best matches the business type (either For-Profit or Not-For-Profit) and business activity (Construction or Other).”

C. Iran Divestment Act

Every Proposal made to ESD pursuant to a competitive solicitation must contain the following statement, signed by the Respondent on company letterhead and affirmed as true under penalty of perjury:

“By submission of this bid, each Respondent and each person signing on behalf of any Respondent certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under

penalty of perjury, that to the best of its knowledge and belief that each Respondent is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law.”

The list in question is maintained by the Office of General Services. For further information and to view this list please go to: <http://www.ogs.ny.gov/about/regs/ida.asp>

D. Non-Discrimination and Contractor & Supplier Diversity Requirements

- **Diversity Practices**

ESD has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Respondents is practical, feasible, and appropriate. Accordingly, Respondents shall be required to include as part of their response to this RFP the Diversity Practices Questionnaire (See **Appendix O**). The Diversity Practices points in the scoring criteria will be awarded based on responses to this questionnaire.

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY NEW YORK STATE-CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations ESD is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of ESD contracts.

- **Business Participation Opportunities for New York State-Certified Minority- and Women-Owned Business Enterprises (“MWBEs”)**

ESD has an agency-wide goal of 30% MWBE participation, divided between 15% for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and 15% for New York State-certified Women-owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs). For this RFP, ESD will establish a goal based on the selected Project. The Designated Developer must document its good faith efforts to provide meaningful participation by MWBEs in the Project. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how ESD will evaluate the Designated Developer’s “good faith efforts,” refer to 5 NYCRR § 142.8.

Respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. In accordance with 5 NYCRR § 142.13, Respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in an agreement resulting from this RFP, such finding constitutes a breach of contract.

By submitting a Proposal, Respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that Respondent may arrange to provide such evidence via a non-electronic method by contacting the Office of Contractor and Supplier Diversity (“OCSD”) at OCSD@esd.ny.gov.

Additionally, Respondent will be required to submit an MWBE Utilization Plan with their Proposal. Any modifications or changes to an accepted MWBE Utilization Plan during development and construction of the Project must be reported on a revised MWBE Utilization Plan and submitted to ESD for review and approval. ESD will review the submitted MWBE Utilization Plan and advise the Designated Developer of ESD acceptance or issue a notice of deficiency within 30 days of receipt.

If a notice of deficiency is issued, the Designated Developer will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to OCSD, at OCSD@esd.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify and direct the Designated Developer to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the Proposal.

ESD may disqualify Respondent as being non-responsive under the following circumstances:

1. Respondent fails to submit an MWBE Utilization Plan;
2. Respondent fails to submit a written remedy to a notice of deficiency;
3. Respondent fails to submit a request for waiver; or
4. ESD determines that Respondent has failed to document good faith efforts.

If selected as the Designated Developer, Respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, for the Project. Requests for a partial or total waiver of established goal requirements must be made to ESD prior to commencement of completion of construction of each phase.

The Designated Developer will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to ESD, by the 10th day following each end of quarter over the term of the Project construction documenting the progress made toward achievement of the Project MWBE goals.

- **Equal Employment Opportunity Requirements**

By submission of a Proposal, Respondent agrees with all of the terms and conditions in [**SCHEDULE B - PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES**](#) located online at <https://esd.ny.gov/sites/default/files/SCCHEDULE%20B.pdf>. Respondent is required to ensure that it and any subcontractors awarded a subcontract for the

construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the “Work”), except where the Work is for the beneficial use of Respondent, 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 Project; or (ii) employment outside New York State.

Respondent is required to submit a Minority- and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, Form #4, to ESD with its Proposal.

If selected as the Designated Developer, Respondent shall submit a Workforce Utilization Report and shall require each of its contractors and subcontractors to submit a Workforce Utilization Report, in such format as shall be required by ESD on a monthly basis during development and construction of the Project.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Designated Developer and contractors/subcontractors 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 contract.

The required forms can be found at the following web addresses:

Form OCSD-1: <https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf>

Form OCSD-2: <https://esd.ny.gov/sites/default/files/OCSD-2-Staffing-Plan.pdf>

Form OCSD-3: <https://esd.ny.gov/sites/default/files/OCSD-3-Workforce-Utilization-Report.xlsx>

Form OCSD-4: <https://esd.ny.gov/sites/default/files/OCSD-4-Utilization-Plan.pdf>

Form OCSD-5: <https://esd.ny.gov/sites/default/files/OCSD-5-Waiver-Request-Form.pdf>

Form OCSD-6: <https://esd.ny.gov/sites/default/files/OCSD-6-Compliance-Report.pdf>

In the event that the above links are unavailable or inactive, the forms may also be requested from OCSD at OCSD@esd.ny.gov.

- **Business Participation Opportunities for New York State-Certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”)**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. ESD recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of ESD contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Respondents are expected to consider SDVOBs in the fulfillment of the requirements of the Project. Such participation may be as consultants, contractors, subcontractors, suppliers, service providers, or other partnering or supporting roles.

Contract Goals

For this RFP, ESD will establish a goal based on the selected Project. For purposes of providing meaningful participation by SDVOBs, Respondent should reference the directory of New York State Certified SDVOBs found at: <http://ogs.ny.gov/Core/SDVOBA.asp>.

Questions regarding compliance with SDVOB participation goals should be directed to the Designated Contacts. Additionally, if selected as the Designated Developer, Respondent is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs in the Project.

The Designated Developer must document “good faith efforts” to provide meaningful participation by SDVOBs in undertaking the Project.

SDVOB Utilization Plan

In accordance with 9 NYCRR § 252.2(i), Respondents are required to submit a completed SDVOB Utilization Plan on Form OCSD-4 with their Proposal (<https://esd.ny.gov/sites/default/files/OCSD-4-Utilization-Plan.pdf>).

The Utilization Plan shall list the SDVOBs that Respondent intends to use on the Project, a description of the work that Respondent intends the SDVOB to perform to meet the goals of the Project, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of work the SDVOB will perform. By signing the Utilization Plan, Respondent acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but

not limited to, termination of a contract for cause, loss of eligibility to submit future RFPs, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after conditional designation and during the Project must be reported on a revised SDVOB Utilization Plan and submitted to ESD.

ESD will review the submitted SDVOB Utilization Plan and advise Respondent of ESD acceptance or issue a notice of deficiency within 20 days of receipt.

If a notice of deficiency is issued, Respondent agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify Respondent and direct Respondent to submit, within five business days of notification by ESD, a request for a partial or total waiver of SDVOB participation goals on Form OCSD-5. Failure to file the waiver form in a timely manner may be grounds for disqualification of the Proposal.

ESD may disqualify a Respondent's Proposal as being non-responsive under the following circumstances:

1. If a Respondent fails to submit an SDVOB Utilization Plan;
2. If a Respondent fails to submit a written remedy to a notice of deficiency;
3. If a Respondent fails to submit a request for waiver; or
4. If ESD determines that Respondent has failed to document good faith efforts.

If selected as the Designated Developer, Respondent certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Project pursuant to the prescribed SDVOB contract goals set forth above.

Respondent further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach. Upon the occurrence of such a material breach, ESD shall be entitled to any remedy provided herein, including but not limited to, a finding of Respondent non-responsibility.

Request for Waiver

Prior to submission of a request for a partial or total waiver, Respondent shall speak to the Designated Contacts at ESD for guidance.

In accordance with 9 NYCRR § 252.2(m), Respondent that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form OCSD-5, accompanied by supporting documentation. Respondent may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by ESD at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with Respondent's waiver request is complete, ESD shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

Respondent shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Project. Requests for a partial or total waiver of established goal requirements made subsequent to conditional designation must be made to ESD prior to completion of construction of the Project.

If ESD, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (Form OCSD-6) determines that the Designated Developer is failing or refusing to comply with the SDVOB goals and no waiver has been issued in regards to such non-compliance, ESD may issue a notice of deficiency to the Designated Developer. The Designated Developer must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to the Designated Contacts.

Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), the Designated Developer must document its good faith efforts toward utilizing SDVOBs on the Project. Evidence of required good faith efforts shall include, but not be limited to, the following:

1. Copies of solicitations to SDVOBs and any responses thereto;
2. Explanation of the specific reasons each SDVOB that responded to Designated Developer's solicitation was not selected;
3. Dates of any pre-RFP, pre-award or other meetings attended by the Designated Developer, if any, scheduled by ESD with certified SDVOBs whom ESD determined were capable of fulfilling the SDVOB goals;
4. Information describing the specific steps undertaken to reasonably structure the Project scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs; and
5. Other information deemed relevant to the waiver request.

Monthly SDVOB Compliance Report

In accordance with 9 NYCRR § 252.2(q), the Designated Developer is required to report Monthly SDVOB Contractor Compliance to ESD during completion of the Project for the preceding month's activity, documenting progress made towards achieving the SDVOB goals. This information must be submitted using Form OCSD-6 available on the ESD website and should be completed by the Designated Developer

and submitted to ESD, by the 10th day of each month during construction of the Project, for the preceding month's activity to: OCSD@esd.ny.gov.

Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Designated Developer found to have willfully and intentionally failed to comply with the SDVOB participation goals, shall be found to have breached their contract and shall pay damages as set forth therein.

General inquiries or questions relating to the aforementioned policies, SDVOB participation, and the goals specified herein may be addressed to OCSD at OCSD@esd.ny.gov.

E. Encouraging the Use of NYS Businesses in Contract Performance Form

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the State and the nation. In recognition of their economic activity and leadership in doing business in New York State, Respondents to this RFP are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of any Project. In order for ESD to assess the use of New York State businesses in each Proposal, ESD requests that each Respondent complete the Encouraging Use of New York State Businesses in Contract Performance form, accessible here:

<http://esd.ny.gov/CorporateInformation/Data/ENCOURAGINGUSEOFNEWYORKSTATEBUSINESSESINCONTRACTPERFORMANCE.pdf>.

F. Certification under State Tax Law Section 5-a

Any contract resulting from this RFP is subject to the requirements of State Tax Law Section 5-a ("STL 5-a"). STL 5-a prohibits ESD from approving any such contract with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services having a value over \$300,000 and is not registered for sales and compensating use tax purposes. To comply with STL 5-a, all Respondents to this RFP must include in their Proposals a properly completed Form ST-220-CA (available at http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf), or an affidavit (available at http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf) that the Respondent is not required to be registered with the State Department of Taxation and Finance. Also, in accordance with the requirements of STL 5-a, any contract resulting from this RFP will require periodic updating of the certifications contained in Form ST-220-CA. Proposals that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered for Contract award. Only Respondent completes Form ST 220-CA, but Schedule A to Form ST 220-CA requires detailed information from the sub-consultants, such as tax ID number, etc., if applicable. Moreover, if applicable, certificates of authority must be attached by Respondent and all subcontractors.

G. Purchase and Sale Agreement

Following selection of a Designated Developer, ESD will prepare a Purchase and Sale Agreement defining all project terms and conditions and the Designated Developer's responsibilities.

H. Project Sunlight

This RFP is subject to the Public Integrity Reform Act of 2011. Under the Public Integrity Reform Act of 2011, "appearances" (broadly defined and including any substantive interaction that is meant to have an impact on the decision-making process of a State entity) before a public benefit corporation such as ESD by a person (also broadly defined) for the purposes of procuring a State Contract (as contemplated in this RFP) must be reported by ESD to a database maintained by the State Office of General Services that is available to members of the public. If in doubt as to the applicability of Project Sunlight, Respondents and their advisors should consult the Laws of 2011, Ch. 399 for guidance.

I. Insurance Requirements

The Designated Developer will be required to provide appropriate insurance coverage as determined by ESD once the structure of the transaction with the Designated Developer has been finalized.

NYS Urban Development Corporation d/b/a Empire State Development (ESD) must be named as an additional insured on a primary and non-contributory basis on certain policies. All policies should include a waiver of subrogation in favor of ESD.

J. W-9 Form

Each Respondent must submit a completed W-9 form (<https://www.irs.gov/pub/irs-pdf/fw9.pdf>) with its Proposal.

K. EO 177 Certification

In accordance with Executive Order No. 177 ("EO 177") issued on February 3, 2018 (available at <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO177.pdf>), any entity that provides goods or services to ESD must certify that it does not have any institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the New York State Human Rights Law. Accordingly, all Respondents must submit an EO 177 certification form (attached as **Appendix P**) with their proposal.

XII. APPENDIX

Below is a list of appendices attached to and made a part of this RFP. All appendices can be downloaded at: <https://www.dropbox.com/sh/tshq1v0ruhd8s59/AAAAbPGd6qCoyoPZhUvwPsecqa?dl=0>.

Appendix A: Site Survey

Appendix B: Site Map and Access

Appendix C: Blue Book

Appendix D: Closure Plan

Appendix E: Site Photographs

Appendix F: Tunnel Road and Access

Appendix G: Phase I Environmental Assessment

Appendix H: Phase II Environmental Assessment

Appendix I: Decommissioning Report

Appendix J: Asbestos Report

Appendix K: Inflow & Infiltration Report

Appendix L: FEMA Flood Map

Appendix M: Beacon Correctional Facility Redevelopment Market and Financial Feasibility Study

Appendix N: Cost Letter

Appendix O: Diversity Practices Questionnaire

Appendix P: EO 177 Certification