



ERIE COUNTY

REQUEST FOR PROPOSAL (RFP)

TO PROVIDE

ARTISTIC CONCEPT AND

REPRESENTATIONAL STATUES OF

TRAILBLAZING WOMEN OF WNY

RFP #2022-023VP

April 25, 2022

ERIE COUNTY COMMISSION ON THE STATUS OF WOMEN
EDWARD A. RATH COUNTY OFFICE BUILDING
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202
County of Erie

REQUEST FOR PROPOSALS

RFP# 2022-023VP

ARTISTIC CONCEPT AND REPRESENTATIONAL STATUES OF TRAILBLAZING WOMEN OF WNY

1. INTRODUCTION

The County of Erie, New York (the “County”) is currently seeking Proposal Statements from qualified artists or team of artists (hereafter, “artists” shall mean individuals and/or teams of artists) to produce concept, design, and representational sculpture/s to bring to life three (3) Western New York women who made significant contributions to their fields within the national context. The resulting monument will be located in the Buffalo and Erie County Central Library plaza, which overlooks Lafayette Square, one of the most prominent public spaces in Erie County. Artists will be selected through a competitive, two-step process. After reviewing qualifications, a committee will select three artists to submit designs. One artist’s design will be selected for full realization. Proposers interested in providing the aforementioned services are invited to respond to this request.

2. GENERAL INFORMATION AND REQUIREMENTS:

A. Artists are encouraged to include Certified Minority and Women Owned Business Enterprises (MBE/WBE) in their teams in order to meet Erie County’s goals of 15% MBE and 5% WBE participation. Certified MBE/WBE proposers should include the Erie County certification letter with the proposal. Artists are highly encouraged to submit the Vendor form attached hereto as Schedule “C” regardless of certification status.

B. All firms wishing to participate in this process must register electronically to Lynette Seliger, Administrative Clerk at Lynette.Seliger@erie.gov. All further information and contact from Erie County will be sent electronically.

C. STEP 1:

- a. **One (1) digital copy in PDF format (formatted to print on standard letter size paper) of the artists qualifications is required to be submitted by 2:00pm on June 3, 2022**

D. STEP 2: (applicable only to shortlisted artists)

- a. **Proposers MUST sign the Proposal Certification attached hereto as Schedule “A”. Unsigned proposals will be rejected.**

- b. **One (1) digital copy in PDF format (formatted to print on standard letter size paper) and nine (9) hard copies of the proposal – in addition to one (1) 24” maquette - is required to be submitted by 2:00 pm on September 14, 2022. Proposals MUST be signed. Unsigned proposals will be rejected.**

E. ERIE COUNTY RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS AND TO WAIVE ANY INFORMALITIES THEREIN

- F. This RFP is not intended and shall not be construed to commit the County to pay any costs incurred in connection with any proposal or to procure or contract with any firm.
- G. Proposers may be required to give an oral presentation to the County to clarify or elaborate on the written proposal. Those proposers will be notified to arrange specific times.
- H. No proposal will be accepted from nor any agreement awarded to any proposer that is in arrears upon any debt or in default of any obligation owed to the County. Additionally, no agreement will be awarded to any proposer that has failed to satisfactorily perform pursuant to any prior agreement with the County.
- I. The County will only contract with firms that do not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, citizenship status or any other status protected by New York State and Federal laws.
- J. The County reserves the right to amend this RFP. The County reserves the right to reject any or all of the proposals, or any part thereof, submitted in response to this RFP, and reserves the right to waive formalities, if such action is deemed to be in the best interest of the County. The County reserves the right to request additional information from any proposer. The County reserves the right to award negotiated contracts to one or more proposers.

3. SCOPE OF WORK

Background

In the past twenty years, countries throughout the world have been realizing the importance of memorializing the significant contributions made by women to their societies. For centuries, these contributions had gone unacknowledged, resulting in very few monuments to women compared to those of men. At present, 8% of monuments in the United States honor women and in Western New York, only 2% do so. With the centennial of the passage of the 19th Amendment in 2020, Erie County has an opportunity to celebrate the trailblazing

women from this region, elevating their contributions to the national stage and demonstrating to our citizens the importance of uncovering these hidden histories.

The Trailblazing Women (TBW) of Western New York Monument Project was initiated in 2016 by the Erie County Commission on the Status of Women in conjunction with the State University of NY at Buffalo Gender Institute (UB Gender Institute). The purpose of the project is to highlight and celebrate the significant contribution of women in the development of this region and the country.

The project will be composed of multiple phases aimed at elevating the contributions of women in Western New York society and beyond. Phase I will place three life-sized sculptures of significant Western New York leaders overlooking Lafayette Square. Following a thorough and iterative process to celebrate the lives of inspirational women that represent our unique history, the Steering Committee has selected three honorees:

- **Louise Blanchard Bethune, FAIA, 1856-1913**

The first professional woman architect in the United States, Louise Blanchard Bethune was a national leader in the architectural profession during the Gilded Age. A staunch advocate for equal pay for equal work, Bethune advocated for co-education and design excellence in architectural design. She was the architect of the Hotel Lafayette.

- **Mary Burnett Talbert, 1866-1923**

An internationally respected human and civil rights leader, Mary Burnett Talbert was an anti-lynching activist, suffragist, preservationist, and educator. She was an early member of the National Association of Colored Women's Clubs, which she helped organize, in addition to the National Association for the Advancement of Colored People (NAACP).

- **Geraldine "Gawö:sid-tah" Green, 1929-2009**

A devoted educator of her Haudenosaunee traditions, Sid-tah was one of the venerable fluent speakers of the Seneca language who shared her knowledge throughout the region, nationally and internationally. She was a leader in the Newtown Longhouse, serving as head women's faith keeper for animal clans.

This project does not wish to re-enact a specific moment in time. Rather, the committee seeks to celebrate the contributions of three very special women who exhibited strength of character and leadership, thereby creating change in their communities and the greater world at large. The sculptures will be co-located on an area that will be approximately 20' in diameter. As such, artists are encouraged to consider these sculptures as one cohesive grouping, as opposed to three stand-alone sculptures.

Location and Siting

The sculptures will be placed on the Buffalo and Erie County Central Library Plaza. The library and plaza were built in 1964 in the International Style. The Central Library has been determined eligible for the National Register of Historic Places (both individually and as a potential extension of the Joseph Ellicott Historic District), but is not listed on the National Register. Currently, there is a large planter bed on the future site of the sculptures. An engineering consultant has been retained to redesign the planter to accommodate an approximately 20' diameter area to site the sculpture/s. The plaza is located over inhabited space below ground. Additional information, including restrictions on weight and installation parameters, will be provided to the shortlisted artists (Step 2). Attached are site drawings and illustrations. The sculptures must be secured to the concrete pad. Installation should be completed no later than September 2023.

Design considerations include:

- Durability of materials, ease and cost of maintenance
- Longevity in the harsh Western New York climate
- Vertical profile: The artwork should provide adequate space for the public to engage with the sculptures.
- Site lines should be considered from Lafayette Square.

Budget Details

The project has budgeted \$400,000.00 for three statues to be designed, fabricated/created, and installed on the plaza of the Buffalo & Erie County Central Library.

A flat rate of \$2,500.00 is allocated for the design proposal of each of the three (3) artists selected for Step 2. There is no compensation for Step 1 of this RFP.

Funds have been allocated for reconstruction of the sculpture site. Trautman Associates, along with subconsultants Joy Kuebler Landscape Architect (WBE), Lighting Design Innovations (WBE), Rodriguez Construction Group (MBE), and Watts Architecture & Engineering (MBE), have been selected for these general architectural/engineering services.

TIMELINE

- | | |
|--|--------------------|
| • RFP Published: | April 25, 2022 |
| • RFP Questions Due: | May 9, 2022 |
| • RFP Question Response/Conference Date: | May 16, 2022 |
| • Artist Qualifications/ Statement Submission: | June 3, 2022 |
| • Shortlist of Three (3) Artists Determined: | June 17, 2022 |
| • Site Visit: | TBD July 2022 |
| • Shortlist of Three (3) Artists Present Proposal: | September 14, 2022 |

- Artist selected: September 22, 2022
- Project completion/Monuments Placed: September 14, 2023

COMMUNICATION

A. All firms wishing to participate in this process must register electronically to Lynette Seliger, Administrative Clerk at Lynette.Seliger@erie.gov. All further information and contact from Erie County will be sent electronically. All subsequent notifications or addendums will be sent only to electronically registered proposing artists.

B. Any requests for RFP interpretations should be made electronically to Lynette Seliger, Administrative Clerk at Lynette.Seliger@erie.gov by May 9, 2022. No requests for oral interpretations via telephone will be accepted. A single response to all questions will be made as outlined in the schedule. **NO COMMUNICATIONS OF ANY KIND WILL BE BINDING AGAINST THE COUNTY, EXCEPT FOR THE FORMAL WRITTEN RESPONSES TO ANY REQUEST FOR CLARIFICATION.**

Respondents are encouraged to be as concise as possible in their responses.

STEP 1: ARTISTS QUALIFICATIONS/STATEMENT SUBMISSION

Artists may submit their Qualifications no later than June 3, 2022. Applications received after this date will not be reviewed. Three (3) finalists will be selected by the Selection Committee to proceed to Step 2. Step 1 begins with the publication of the RFP, includes a submission of qualifications, and ends with a short list of three (3) artists or artist teams.

A. Eligibility:

- 1) Individual artists or artistic teams may apply. Lead applicant must be 18 years or older to be eligible. Teams must commit to working together throughout the duration of the project.
- 2) Applicant must be able to demonstrate their experience as a public artist with a portfolio consisting of at least three successful installations of permanent public art projects; and/or three successful installations of temporary public artworks; and/or the demonstrated capacity to bring studio artworks to scale in the public realm.
- 3) Black, Indigenous, People of Color, women and gender nonconforming persons, LGBTQIA+ community members are highly encouraged to apply.
- 4) Recognizing the intersectionality of artists' identities, we acknowledge that artists may also identify as cultural practitioners, activists and community-rooted collaborators, and may be self/community-taught, institutionally trained, or a combination of both; all are welcome to submit their qualifications to complete this work.
- 5) This call for qualifications is open to artists within the United States. New York State residents are encouraged to apply.

B. Artist Qualifications Submission

Artists and artist-led teams interested in the project should email one copy of each of the following criteria (all together as one PDF). All should be labeled with the artist's name.

- Artist Resume (if a team, one from each team member) with current contact information and roles.
- Artist Statement of Intent (one page maximum)
- Images (10-15) of the artist's work identified with title, date, size, and media of the artwork. Links to videos and reviews/critiques of the work (community and/or "professional") are also encouraged
- Images of three or more installed past works (maximum of 10 images). Links to videos and reviews/critiques of the work (community and/or "professional") are also encouraged
- Three professional references
- Proposal Certification attached hereto as Schedule "A"
- Erie County Vendor form attached hereto as Schedule "C"

Please email entire package as a single PDF that does not exceed 10 MB.

Artists who have experience and personal knowledge/connection of the cultures of the three trailblazing women who are the subjects of this monument are highly encouraged to apply.

C. Qualifications Evaluation Criteria:

- Artwork portfolio complements the mission of the project to celebrate the lives of three exceptional trailblazers.
- Artist's portfolio reflects an understanding of or connection to the marginalized groups that were the focus of the honorees' missions and work described in Section 3: Scope of Work.
- Artist demonstrates capacity to complete representational sculptures and meeting deadlines.
- Portfolio demonstrates ability to execute a project of this magnitude.

D. Clarifications (Addendum 1) & Information Session (Recording will be Addendum 2)

- 1) Any requests for RFP interpretations should be made electronically to Lynette Seliger, Administrative Clerk at Lynette.Seliger@erie.gov by May 9, 2022. No requests for oral interpretations via telephone will be accepted. A single response to all questions (Addendum 1) will be made as outlined in the schedule. **NO COMMUNICATIONS OF ANY KIND WILL BE BINDING AGAINST THE COUNTY, EXCEPT**

FOR THE FORMAL WRITTEN RESPONSES TO ANY REQUEST FOR CLARIFICATION.

- 2) An informational session will be conducted on May 16, 2022. The informational session will happen after publication of Addendum 1, to provide an opportunity for any and all interested artists to receive additional clarifications live. The Information Session will most likely be conducted through Webex; which will be recorded and posted as Addendum 2.

E. Selection Committee: The Selection Committee will review complete applications, score the submitted qualifications, and select no more than three artists as semi-finalists.

The Selection Committee includes expert members of the TBW Artist Advisory Committee plus representatives from agencies in Erie County:

- Albright-Knox Art Gallery
- Burchfield Penney Art Center
- Monument Research & Preservation Program, National Parks Service
- Buffalo Renaissance Foundation
- State University of New York at Buffalo
- Cornell University Department of History of Art & Visual Studies and American Indian and Indigenous Studies Program
- Erie County Office of Public Advocacy & Commission on the Status of Women
- Erie County Department of Environment & Planning

STEP 2: FINAL ARTIST SELECTION

The three (3) artists short-listed will be contracted to complete a proposal at a flat rate of \$2,500.00 between June and September of 2022.

The selected artists will be invited to a site visit in July 2022 (artist shall be responsible for travel and accommodations). Site detail documents will be provided.

The artists will be granted until September 2022 to develop a proposal. Proposals must include a concept design, narrative description, 24" maquette, detailed project timeline (to include, but not limited to, design, fabrication, transit/freight, and installation), and project budget/cost proposal (to include, but not limited to artists fees, material costs, fabrication costs, freight costs, installation costs, insurance, and any other applicable expense). Timeline and budget should consider/incorporate the "Commissioned Artist Scope of Work" as listed below. Teams of Artists should also include an organizational chart identifying the team members, with their titles, roles, and contact information.

Proposals will be evaluated primarily on the proposed concept and understanding of tasks. The selection committee will consider various aspects of the concept proposed,

including but not limited to, the permanence and appropriateness of the materials, maintenance requirements, interactivity of the piece, context, and lighting.

The contract will be a fixed price or lump sum cost contract. Therefore, all proposals must contain a Lump Sum Cost Proposal for the scope of services delineated, inclusive of all expenses. As the Lump Sum Cost Proposal shall be inclusive of all expenses, Erie County shall have no obligation to reimburse for any costs or expenses incurred in relation to the performance of the services contemplated herein. Proposals must include a breakdown by cost for all categories to complete the work.

One (1) digital copy in PDF format (formatted to print on standard letter size paper) and nine (9) hard copies of the proposal – in addition to one (1) 24” maquette - is required to be provided to the Project Manager/Selection Committee. Proposers **MUST** sign the Proposal Certification attached hereto as Schedule “A”. Unsigned proposals will be rejected. Submit cost proposal in a separate sealed envelope and as a separate pdf file in the flash drive along with the proposal for services.

Proposals must be received at the below address no later than September 14, 2022:

Karen L. King, PhD.
Commissioner of Public Advocacy
Erie County Office of Public Advocacy
Rath Building, Room 651
95 Franklin Street
Buffalo, New York, 14202

The three (3) finalists shall present their full proposals to the Selection Committee on September 14, 2022. The presentations are expected to be conducted in-person in Erie County, NY, if conditions permit. Exact time, location, and any necessary audio-video equipment will be coordinated with the Project Manager/Selection Committee and semi-finalists.

Erie County will publicly announce the commissioned artist in September 2022.

Step 2 begins with the short-list of three artists, includes the submission of Proposals with Cost Proposals, and Presentations, and ends with the selection of the final commissioned artist to contract to complete the work. Step 2 closes the RFP process, allowing the contracting process to begin.

A. Commissioned Artist Scope of Work

Finalist will be contracted to:

- Regularly communicate with the Project Manager/Steering Committee for Erie County. This shall include Coordination Meetings as scheduled between the artist and Project Manager/Steering Committee (which may be in person and/or web-conference as appropriate), and bi-weekly progress reports throughout the duration of the project to completion. Bi-weekly reports shall be written communications, and

may include or supplant coordination meetings with the Project Manager/Steering Committee at the Project Manager/Steering Committee's discretion. The Project Manager/Steering Committee and artist may determine an alternate schedule, and/or a schedule that varies according to the project's progress. (NOTE: The Steering Committee may involve more and/or different persons than the Selection Committee.)

- Adjust RFP Step 2 design proposal, if needed, to meet project objectives as stated in the "Background" section above, in coordination with the Project Manager/Steering Committee (NOTE: adjustments to proposal shall be based on practical and logistical considerations and shall not involve changes to the concept, style, or other significant components of the representational statues proposed by the artist).
- Complete and submit design drawings/visuals to the Project Manager/Steering Committee for final approval ("Final Design"), to include any amendments.
- Complete and submit construction/fabrication specifications of the Final Design to the Project Manager/Steering Committee for technical and site coordination.
- Manage and complete the work in accordance to approved Final Design.
- Insure artwork during fabrication through final acceptance by Erie County.
- Oversee transportation/freight of any and all artwork.
- Manage any and all subcontracts related to design and fabrication of the sculptures, as approved by Project Manager/Selection Committee, including but not limited to:
 - Manage bid process, including completing required plans, specifications and any other documents needed, advertising, and conducting the Pre-Bid and Pre-Construction Meetings. Collect and maintain contract documents.
 - Review and process contractor submittals, including: shop drawings, material product data, and submittals. Reviewed submittals and shop drawings are to be submitted to the County upon final acceptance (Approved, No Exceptions Taken, Approved as Noted, etc.) of all submittals.

- Manage fabrication schedule, to include monitoring on a regular basis (define in proposal).
 - Evaluate appropriateness of materials and equipment, as well as any proposed changes, and make appropriate recommendations.
 - Monitor budget to ensure project is delivered within budget. Review estimates for payment to subcontractors (fabricators, etc.) and certify the same for payment. In certifying for payment, ensure that no payment is for more than the value of the work already completed.
- Complete fabrication by September 1, 2023.
 - Install and/or attend and oversee the installation of the final work no later than September 14, 2023.
 - Develop and submit to Erie County a maintenance and conservation plan.
 - Attend press events, artist talks, and/or participate in promotional activities leading up to the unveiling of the work.

This Scope of Work has been prepared as a proposal guideline. It is the respondent’s responsibility to propose a scope that the proposer feels would be necessary to complete the project.

4. **SCORING, RANKING AND SELECTION PROCESS:**

Scoring and ranking will include the following factors:

STEP 1: Background of Artist/Team

1. Experience/past performance of Artist/Team	25	_____
2. Specific experience on this type of project	40	_____
3. Local presence for Artist/Team	10	_____
4. Woman and/or BIPOC participation/ Cultural connection with the communities represented in the project	25	_____
Total	100	_____

STEP 2: Approach to project

1. Proposed Concept	60	_____
2. Understanding of tasks	25	_____
3. Schedule	10	_____
4. Other factors	5	_____
Total	100	_____

Erie County may short list from the proposals and interviews/presentations may be required.

5. SUBMISSION OF PROPOSALS:

- A. The County does not assume the responsibility or liability for costs incurred by artists responding to this RFP or to any subsequent requests for interviews, additional information, submissions, etc. prior to issuance of a contract.
- B. All respondents should understand that Erie County is committed to an open, fair and transparent selection process. All RFP submissions will be reviewed, objectively scored and ranked. Short listed artists will be interviewed prior to recommendation for selection.
- C. The highest-ranking artist after scoring and interviews will be recommended to the Erie County Legislature for authorization to enter into contract. Scores and ranking of all firms will be provided to the Legislature and the results will at that time become public record.
- D. Proposing artists should understand that to provide for this open and transparent process, more time will be required. The timeframe from advertisement to contract execution may be up to five months. Consultants should consider this when scheduling staff time and anticipating project commencement.

9. STATEMENT OF RIGHTS

UNDERSTANDINGS

Please take notice, by submission of a proposal in response to this request for proposals, the proposer agrees to and understands:

- that any proposal, attachments, additional information, etc. submitted pursuant to this Request for Proposals constitute merely a suggestion to negotiate with the

County of Erie and is not a bid under Section 103 of the New York State General Municipal Law;

- submission of a proposal, attachments, and additional information shall not entitle the proposer to enter into an agreement with the County of Erie for the required services;
- by submitting a proposal, the proposer agrees and understands that the County of Erie is not obligated to respond to the proposal, nor is it legally bound in any manner whatsoever by submission of same;
- that any and all counter-proposals, negotiations or any communications received by a proposing entity, its officers, employees or agents from the County, its elected officials, officers, employees or agents, shall not be binding against the County of Erie, its elected officials, officers, employees or agents unless and until a formal written agreement for the services sought by this RFP is duly executed by both parties and approved by the Erie County Legislature, the Erie County Fiscal Stability Authority, and the Office of the Erie County Attorney.

In addition to the foregoing, by submitting a proposal, the proposer also understands and agrees that the County of Erie reserves the right, and may at its sole discretion exercise, the following rights and options with respect to this Request for Proposals:

- To reject any or all proposals;
- To issue amendments to this RFP;
- To issue additional solicitations for proposals
- To waive any irregularities in proposals received after notification to proposers affected;
- To select any proposal as the basis for negotiations of a contract, and to negotiate with one or more of the proposers for amendments or other modifications to their proposals;
- To conduct investigations with respect to the qualifications of each proposer;
- To exercise its discretion and apply its judgment with respect to any aspect of this RFP, the evaluation of proposals, and the negotiations and award of any contract;
- To enter into an agreement for only portions (or not to enter into an agreement for any) of the services contemplated by the proposals with one or more of the proposers;
- To select the proposal that best satisfies the interests of the County and not necessarily on the basis of price or any other single factor;
- To interview the proposer(s);

- To request or obtain additional information the County deems necessary to determine the ability of the proposer;
- To modify dates;
- All proposals prepared in response to this RFP are at the sole expense of the proposer, and with the express understanding that there will be no claim, whatsoever, for reimbursement from the County for the expenses of preparation. The County assumes no responsibility or liability of any kind for costs incurred in the preparation or submission of any proposal;
- While this is a RFP and not a bid, the County reserves the right to apply the case law under General Municipal Law § 103 regarding bidder responsibility in determining whether a proposer is a responsible vendor for the purpose of this RFP process;
- The County is not responsible for any internal or external delivery delays which may cause any proposal to arrive beyond the stated deadline. To be considered, proposals MUST arrive at the place specified herein and be time stamped prior to the deadline

EVALUATION

The following criteria, not necessarily listed in order of importance, will be used to review the proposals. The County reserves the right to weigh its evaluation criteria in any manner it deems appropriate:

- Proposer's demonstrated capability to provide the services.
- Evaluation of the professional qualifications, personal background and resume(s) of individuals involved in providing services.
- Proposer's experience to perform the proposed services.
- Proposer's financial ability to provide the services.
- Evaluation of the proposer's fee submission. It should be noted that while price is not the only consideration, it is an important one.
- A determination that the proposer has submitted a complete and responsive proposal as required by this RFP.
- An evaluation of the proposer's projected approach and plans to meet the requirements of this RFP.

- The proposer’s presentation at and the overall results of any interview conducted with the proposer.
- Proposers **MUST** sign the Proposal Certification attached hereto as Schedule “A”. Unsigned proposals will be rejected.
- Proposers may be required to give an oral presentation to the County to clarify or elaborate on the written proposal.
- No proposal will be accepted from nor any agreement awarded to any proposer that is in arrears upon any debt or in default of any obligation owed to the County. Additionally, no agreement will be awarded to any proposer that has failed to satisfactorily perform pursuant to any prior agreement with the County.

CONTRACT

After selection of the successful proposer, a formal written contract will be prepared by the County of Erie and will not be binding until signed by both parties and, if necessary, approved by the Erie County Legislature, the Erie County Fiscal Stability Authority and the Office of the County Attorney. **NO RIGHTS SHALL ACCRUE TO ANY PROPOSER BY THE FACT THAT A PROPOSAL HAS BEEN SELECTED BY THE COUNTY FOR SUBMISSION TO THE ERIE COUNTY LEGISLATURE AND/OR THE ERIE COUNTY FISCAL STABILITY AUTHORITY FOR APPROVAL. THE APPROVAL OF SAID LEGISLATURE AND/OR AUTHORITY MAY BE NECESSARY BEFORE A VALID AND BINDING CONTRACT MAY BE EXECUTED BY THE COUNTY.**

INDEMNIFICATION AND INSURANCE

The proposer accepts and agrees that language in substantially the following form will be included in the contract between the proposer and the County:

“In addition to, and not in limitation of the insurance requirements contained herein the Consultant agrees:

(a) that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the County, the Consultant shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys' fees or loss arising directly or indirectly out of the acts or omissions hereunder by the Consultant or third parties under the direction or control of the Consultant; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

Upon execution of any contract between the proposer and the County, the proposer will be required to provide proof of the insurance coverage described in Schedule "B".

Insurance coverage in amount and form shall not be deemed acceptable until approved by the County Attorney.

INTELLECTUAL PROPERTY RIGHTS

The proposer accepts and agrees that language in substantially the following form will be included in the contract between the proposer and the County:

All deliverables created under this Agreement by the Consultant are to be considered “works made for hire”. If any of the deliverables do not qualify as “works made for hire”, the Consultant hereby assigns to the County all right, title and interest (including ownership of copyright) in such deliverables and such assignment allows the County to obtain in its name copyrights, registrations and similar protections which may be available. The Consultant agrees to assist the County, if required, in perfecting these rights. The Consultant shall provide the County with at least one copy of each deliverable.

The Consultant agrees to indemnify and hold harmless the County for all damages, liabilities, losses and expenses arising out of any claim that a deliverable infringes upon an intellectual property right of a third party. If such a claim is made, or appears likely to be made, the Consultant agrees to enable the County’s continued use of the deliverable, or to modify or replace it. If the County determines that none of these alternatives is reasonably available, the deliverable will be returned.

All records compiled by the Consultant in completing the work described in this Agreement, including but not limited to written reports, source codes, studies, drawings, blueprints, negatives of photographs, computer printouts, graphs, charts, plans, specifications and all other similar recorded data, shall become and remain the property of the County. The Consultant may retain copies of such records for its own use.

NON-COLLUSION

The proposer, by signing the proposal, does hereby warrant and represent that any ensuing agreement has not been solicited, secured or prepared directly or indirectly, in a manner contrary to the laws of the State of New York and the County of Erie, and that said laws have not been violated and shall not be violated as they relate to the procurement or the performance of the agreement by any conduct, including the paying or the giving of any fee, commission, compensation, gift, gratuity or consideration of any kind, directly or indirectly, to any County employee, officer or official.

CONFLICT OF INTEREST

All proposers must disclose with their proposals the name of any officer, director or agent who is also an employee of the County of Erie. Further, all proposers must

disclose the name of any County employee who owns, directly or indirectly, an interest of ten percent or more in the firm or any of its subsidiaries or affiliates.

There shall be no conflicts in existence during the term of any contract with the County. The existence of a conflict shall be grounds for termination of a contract.

COMPLIANCE WITH LAWS

By submitting a proposal, the proposer represents and warrants that it is familiar with all federal, state and local laws and regulations and will conform to said laws and regulations. The preparation of proposals, selection of proposers and the award of contracts are subject to provisions of all Federal, State and County laws, rules and regulations.

CONTENTS OF PROPOSAL

The New York State Freedom of Information Law as set forth in Public Officers Law, Article 6, Sections 84 et seq., mandates public access to government records. However, proposals submitted in response to this RFP may contain technical, financial background or other data, public disclosure of which could cause substantial injury to the proposer's competitive position or constitute a trade secret. Proposers who have a good faith belief that information submitted in their proposals is protected from disclosure under the New York Freedom of Information Law shall:

a) insert the following notice in the front of its proposal:

“NOTICE”

The data on pages ___ of this proposal identified by an asterisk (*) contains technical or financial information constituting trade secrets or information the disclosure of which would result in substantial injury to the proposer’s competitive position.

The proposer requests that such information be used only for the evaluation of the proposal, but understands that any disclosure will be limited to the extent that the County considers proper under the law. If the County enters into an agreement with this proposer, the County shall have the right to use or disclose such information as provided in the agreement, unless otherwise obligated by law.”

and

b) clearly identify the pages of the proposals containing such information by typing in bold face on the top of each page " *** THE PROPOSER BELIEVES THAT**

THIS INFORMATION IS PROTECTED FROM DISCLOSURE UNDER THE STATE FREEDOM OF INFORMATION LAW."

The County assumes no liability for disclosure of information so identified, provided that the County has made a good faith legal determination that the information is not protected from disclosure under applicable law or where disclosure is required to comply with an order or judgment of a court of competent jurisdiction.

The contents of the proposal which is accepted by the County, except portions "Protected from Disclosure", may become part of any agreement resulting from this RFP.

EFFECTIVE PERIOD OF PROPOSALS

All proposals must state the period for which the proposal shall remain in effect (i.e. how much time does the County have to accept or reject the proposal under the terms proposed). Such period shall not be less than 180 days from the proposal date.

SCHEDULE "A"

PROPOSER CERTIFICATION

The undersigned agrees and understands that this proposal and all attachments, additional information, etc. submitted herewith constitute merely an offer to negotiate with the County of Erie and is NOT A BID. Submission of this proposal, attachments, and additional information shall not obligate or entitle the proposing entity to enter into a service agreement with the County of Erie for the required services. The undersigned agrees and understands that the County of Erie is not obligated to respond to this proposal nor is it legally bound in any manner whatsoever by the submission of same. Further, the undersigned agrees and understands that any and all proposals and negotiations shall not be binding or valid against the County of Erie, its directors, officers, employees or agents unless an agreement is signed by a duly authorized officer of the County of Erie and, if necessary, approved by the Erie County Legislature and Erie County Fiscal Stability Authority and the Office of the County Attorney.

It is understood and agreed that the County of Erie reserves the right to reject consideration of any and all proposals including, but not limited to, proposals which are conditional or incomplete. It is further understood and agreed that the County of Erie reserves all rights specified in the Request for Proposals.

It is represented and warranted by those submitting this proposal that except as disclosed in the proposal, no officer or employee of the County of Erie is directly or indirectly a party to or in any other manner interested in this proposal or any subsequent service agreement that may be entered into.

Proposer Name

By: _____
Name and Title

SCHEDULE "B"

STANDARD INSURANCE PROVISIONS

INSTRUCTIONS FOR COUNTY OF ERIE STANDARD INSURANCE CERTIFICATE

- I. Insurance shall be procured and certificates delivered before commencement of work or delivery of merchandise or equipment.
- II. CERTIFICATES OF INSURANCE
 - A. Shall be made to the "County of Erie, 95 Franklin St, Buffalo NY, 14202"
 - B. Coverage must comply with all specifications of the contract.
 - C. Must be executed by an insurance company, agency or broker, which is licensed by the Insurance Department of the State of New York. If executed by a broker, notarized copy of authorization to bind or certify coverage must be attached.
- III. Forward the completed certificate to: County of Erie, (Department or Division) responsible for entering into the agreement for construction, purchase, lease or service.

IV. Minimum coverage with limits are as follows:

Vendor Classification	A Construction and Maintenance	B Purchase or Lease of Merchandise or Equipment	C Professional Services	D Property Leased To Others Or Use Of Facilities Or Grounds	E Concessionaires Services	F Livery Services	G All Purposes Public Entity Contracts
Commercial Gen. Liab.	\$1,000,000 per occ.	\$1,000,000 CSL	\$1,000,000 CSL	\$1,000,000	\$1,000,000 CSL	\$1,000,000	\$1,000,000 CSL
General Aggregate	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000
Products Completed Operations Liability	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000
Blanket Broad Form Contractual Liability	INCLUDE						
Contractual Liability		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Broad Form P.D.	INCLUDE						
X.C.U. (explosion, collapse, Underground)	INCLUDE						
Liquor Law				INCLUDE	INCLUDE		
Auto Liab.	\$1,000,000 CSL		\$1,000,000 CSL	\$1,000,000 CSL	\$1,000,000 CSL	\$1,000,000 CSL	\$1,000,000 CSL
Owned	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Hired	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Non-Owned	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Excess/Umbrella Liab.	\$5,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$5,000,000	\$1,000,000
Worker's Compensation & Employer's Liability	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY
Disability Benefits	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY
Professional Liability			\$5,000,000				
Erie County, To Be Named Additional Insured	Gen. Liab., Auto Liab., & Excess	Broad Form Vendors May Be Required	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess

- V. Construction contracts require excess Umbrella Liability limits of \$5,000,000.
- VI Coverage must be provided on a primary-noncontributory bases.
- VII. Designated Construction Project General Aggregate Limit Per Project Endorsement CG 25 03 is required.
- VIII. In the event the concessionaire is required to have a N.Y.S. license to dispense alcoholic beverages an endorsement for liquor liability is required.
- IX. Waiver of Subrogation: Required on all lines unless noted

- X. Transportation of people in buses, vans or station wagons requires \$5,000,000 excess liability.
- XI. Workers Compensation: State Workers' Compensation/Disability Benefits Law.
Use Applicable Certificates Below:

Workers Compensation Forms

Form Number	Exemption
CE-200	Exemption
C105.2	Commercial Insurer
SI-12	Self Insurer
GSI-105.2	Group Self Insured
U-26.3	New York State Insurance Fund

DBL (Disability Benefits Law) Forms

Form Number	Exemption
CE-200	Exemption
DB-120.1	Insurers
DB-155	Self Insured

- XII. The "ACORD" form certificate may be used in place of the County of Erie Standard Insurance Certificate, provided that all of the above referenced requirements are incorporated into the "ACORD" form certificate.

County of Erie Standard Insurance Certificate



THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME	
	PHONE (A/C No. Ext)	FAX (A/C No.)
	EMAIL ADDRESS	
	PRODUCER CUSTOMER ID #	
INSURED	INSURER(S) AFFORDING COVERAGE	
	INSURER A:	NAIC #
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURER	POLICY NUMBER	POLICY EFF DATE (MM/DD/YYYY)	POLICY EXP DATE (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRJ. <input type="checkbox"/> LOC					EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DEDUCTIBLE \$ RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH) Y/N <input type="checkbox"/> N/A If yes describe under DESCRIPTION OF OPERATIONS below					WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACCORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER	CANCELLATION
County of Erie 95 Franklin St Buffalo NY, 14202	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

X. FOR COUNTY USE ONLY:

Name of County Dept. Requesting Certificate _____

Purchase Order or Contact Number _____

Vendor Insurance Classification _____

SCHEDULE "C"

Vendor Form