



ERIE COUNTY

REQUEST FOR PROPOSAL (RFP)

FOR AN ERIE COUNTY CULTURAL PLAN

RFP # 2023-019VF

February 14, 2023

**DEPARTMENT OF ENVIRONMENT & PLANNING
EDWARD A. RATH COUNTY OFFICE BUILDING
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202**

County of Erie
REQUEST FOR PROPOSALS

RFP # 2023-019VF

TO PROVIDE AN ERIE COUNTY CULTURAL PLAN

1. INTRODUCTION

The County of Erie, New York (the “County”) is currently seeking Proposals from qualified planning and consulting firm or team of firms (hereafter, “Proposer” shall mean single firms and/or team of firms) interested in providing countywide public outreach, analysis, and recommendations for an Erie County Cultural Plan. Proposers interested in providing such services are invited to respond to this request.

Erie County has a population of 954,236 people, and an area of 1,058 square miles on the western border of New York State. The county has 14 villages, 25 towns, and 3 cities. The City of Buffalo serves as the county seat, and is the second largest city in New York State with 278,349 residents as of the 2020 Census. Erie County is considered part of a region called Western New York, which is composed of Allegany, Cattaraugus, Chautauqua, Erie and Niagara Counties (for the purposes of this document, as delineated by the WNY Regional Economic Development Council).

The nonprofit arts and culture sector in Western New York spent \$156 million in the region, including expenditures for facilities and capital asset acquisition, with an additional \$196.1 million spent by their audiences to generate \$352.1 million in total economic activity in 2015. The sector also provided 10,160 full-time equivalent jobs, generating \$208.2 million in household income to local residents. This economic activity and investment in WNY delivered \$40.3 million in local and state government revenue in 2015 ([The Arts and Economic Prosperity 5 Western New York Report, 2017](#)).

In addition to the economic impacts, the arts and culture sector actively and intentionally embarks on adaptive reuse of existing structures, operates and enables public access to historic sites and buildings which are important aspects of Buffalo and Erie County’s infrastructure and beauty (some of which are on or are eligible for the State and/or National Registers) and provides activation of recreation and open spaces. They provide responsive and affordable training and education in a multitude of traditional and emerging fields, such as film and theatre production, digital media development, ballet, painting, sculpture, literary arts, and more.

Erie County has long recognized the importance of cultural organizations, providing annual appropriations for over 40 years. In 2022, \$7.4M was allocated to more than 100 non-profit arts/culture organizations. Erie County has also periodically provided capital improvement grants towards the improvement of cultural facilities. The cultural capital improvement program was expanded significantly in 2022, with a one-time \$25M allocation for capital projects which will be spent in phases between 2023-2025. This scope of support is unique in New York State outside of New York City and was recognized by the National Association of Counties with a 2021 Achievement Award.

In addition to long-term support from the state, county, and area foundations, in [2021 the Ralph C. Wilson, Jr Foundation committed \\$100M](#) over 10 years to support the region's largest organizations through an endowment (\$60M), annual support during the endowment's creation (\$33.75M), and \$500,000 annually to provide support to small and medium organizations along with permanent capacity (\$250,000) at the Community Foundation for Greater Buffalo to manage and operate the grants and endowment.

These unexpected, historical infusions of funding and support for the arts in WNY create unprecedented opportunity for a new vision and approach. The Erie County Cultural Plan shall identify avenues to coordinate local, regional, state, national, and private funding and other assets to bring regional and large-scale efforts and goals to fruition. Such efforts should expand the application of cultural resources to civic priorities to increase the region's appeal as a great place to live and work for all.

This Cultural Plan shall be multidisciplinary, ambitious, and visionary. It should consider arts/culture not-for-profit organizations as well as businesses (examples: dance schools, music venues, art galleries, etc.). It shall delineate how to more effectively connect the arts and cultural sector (cultural organizations of all sizes and disciplines, artists, arts audiences, arts education, public arts, and arts facilities, etc.) and its numerous assets to tourism, urban design/land use, education, economic development, and community development, in order to provide a workplan that all stakeholders can contribute to in a coordinated manner. It shall indicate the gaps in service in the county and make recommendations to amend them. This includes addressing areas such as facility utilization, removing barriers to participation, applying careful consideration to education and youth development, and identifying specific actions to advance racial equity and broad inclusion.

It is the county's intent to select the Proposer that provides the best solution for the county's needs.

2. GENERAL INFORMATION AND REQUIREMENTS:

- A. Proposers **MUST** sign the Proposal Certification attached hereto as Schedule “A”. Unsigned proposals will be rejected.
- B. One (1) original, six (6) print copies, and one (1) electronic copy in PDF format (formatted to print on standard letter size paper) on flash drive of the proposal are required to be submitted by 12:00 pm on March 9th, 2023. Proposals **MUST** be signed. Unsigned proposals will be rejected.
- C. All firms wishing to participate in this process must register electronically with Mariely Ortiz, Senior Planner at Mariely.Ortiz@erie.gov. All further information and contact from Erie County will be sent electronically.
- D. The anticipated schedule for the RFP is:

RFP Advertisement Date	February 14 th , 2023
RFP Questions Due	February 24 th , 2023
RFP Question Response Date	February 28 th , 2023
Proposals Due	March 9 th , 2023

- E. **ERIE COUNTY RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS AND TO WAIVE ANY INFORMALITIES THEREIN.**
- F. 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.
- G. 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.
- H. 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.
- 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

A flourishing cultural community and economic vitality are clearly linked to neighborhood rejuvenation with the creation of unique districts and attractions. Cultural organizations collectively play an essential role in fostering downtown revitalization, the enhancement of beauty in public spaces, recreation, respite, and integration of all income and age groups.

The Greater Buffalo Cultural Alliance (GBCA) is the sector partner behind the impetus of this project, and will bring intimate industry knowledge that is indispensable for an effective Cultural Plan. The Erie County Department of Environment & Planning, Planning Division (DEP) will be the coordinator and lead for the project.

Goals and Objectives

The Erie County Cultural Plan will provide a common and defined set of priorities work plan for sectors such as education, business, tourism, government, workforce development, philanthropy, and the public at large to meet priorities in active partnership with the arts and culture sector. The intent of the Plan is to provide varied and creative ideas on how the arts can enhance and further civic concerns while lifting artists and arts and culture groups/organizations to support flourishing at the individual, organizational and community levels.

Research and case studies show that art organizations and the involvement of arts in the planning process improve community pride, livability, property values, and tax revenues. This Plan will help provide the framework to support and encourage such synergy and results amongst regional stakeholders.

The Erie County Cultural Plan will review current cultural assistance roles of various agencies and organizations including but not limited to current marketing efforts, non-profit, governmental and foundational funding priorities, practices and distribution, cultural workforce and workforce utilization. The Consultant will develop a coordinated plan to target the roles and efforts to effectively maximize impact.

Erie County benefits from the interaction of numerous global forces and a rich cultural landscape through our geographical location adjacent to Canada, indigenous peoples and history, and our increasing international immigrant population. Each aspect shall be included in the Plan's outreach and recommendations.

This planning project aims to create more public value by leveraging the collective influence of WNY and Erie County's vital and vibrant cultural sector, opening opportunities for further development which can be approached as subsequent phases.

The Cultural Plan will help Erie County identify opportunities, additional resources, and avenues of approach to support our communities, shape our organizational ecosystem, and built environment by bringing arts and culture more fully to the table in collaborations between the creative, private, and public sectors.

Targets for the Cultural Plan include:

- Community wide organizational structure assessment
- Facility- high-level assessment of cultural facilities, utilization, market analysis and condition.
- Economic Development- arts and cultural assets as part of an overall strategy to foster tourism, economic development, and the attraction and retention of population and businesses.
- Workforce – assessment of workforce and utilization
- Audience composition
- Resource allocation – cultural organizational grant and technical assistance assessment
- Marketing - coordination and focusing of marketing to target and increase effectiveness, particularly to draw from outside of Erie County
- Fuller integration of cultural organizations and artists into economic and broader development initiatives, including tourism and workforce development;
- Enhanced visibility of and increased collective voice in decisions affecting cultural organizations and artists;

- Improved awareness of the potential for contributions from arts and culture to community and economic development;
- Augmented public access to cultural activities
- Equity

Proposed Work

The Proposer will develop an Erie County Cultural Plan which will include but is not limited to the following items:

GENERAL AND ADMINISTRATIVE TASKS

- Develop a formal project timeline or Gantt Chart with milestones, tasks, and deliverables to be completed. The planning process from contract execution to final report should be 12 months.
- Attend project kickoff meeting with County staff and steering committee to discuss scope of project, roles, deliverables, and schedule.
- Provide email updates to County staff on progress on a bi-weekly basis. Provide updates in a consistent form that identifies changes from previous update.
- Facilitate meetings with County staff and steering committee monthly, or as needed (coordinate with County staff to schedule meetings) to provide guidance, discuss progress, and scope of work. Meeting duties include, but are not limited to:
 - Prepare and coordinate any needed equipment, materials, and input in a timely manner so that meetings are productive and decisive
 - Provide County staff and steering committee with written meeting minutes for all meetings.
- Provide draft documents in editable formats for review by the County. Make changes and corrections promptly. No later documents will be reviewed or invoices approved until prior comments and corrections have been incorporated.

TASK A: VISIONING, GOALS, & OBJECTIVES

- Engage the Steering Committee to develop an assessment of current cultural landscape - conduct a S.W.O.T. analysis or similar analysis with the Steering committee. This analysis should be revised based on input received from the public and stakeholder engagement.
- Inventory of varying cultural assistance organizations and current roles and responsibilities
- Facilitate meetings to develop a Plan vision with the Steering Committee

- Facilitation of meetings to develop Plan goals and objectives to advance the Plan vision.
- Assess current data, and identify data needs and means to create such data
- Define mechanisms and measurable means to accomplish goals and objectives and measure success.
- Identify strategies, needs and constraints, standards to follow, data to be collected, and any other aspects that require discussion from the steering committee.
- Conduct objective and subjective data gathering and analysis of current and future conditions as related to arts and culture in Erie County.

TASK B: PUBLIC ENGAGEMENT & ANALYSIS

The public engagement process and analysis shall seek input from arts and culture, business, education, economic development, government, and philanthropy to assess community needs. Identify and reach out to both those involved in the arts and any who are not, especially including communities where barriers (whether socioeconomic, historic, language-based, or physical) prevent them from participating as much as they would like in the arts and culture of the region. Particular effort should be expended to engage communities least likely to be served by traditional cultural arts programs with the goal of creating new opportunities for involvement and benefit.

Participation in the cultural planning process should be user friendly and engage the county-wide audience equitably. Methods of public input/outreach may include public meetings or charrettes, through social media, and in-person attendance at festivals and other community events (for example, neighborhood association meetings/block parties, sporting events, etc.). Public input events/opportunities should include creative engagement as appropriate for the venue, method, and audience. Public meetings should engage attendees to identify both existing offerings and gaps in programming, access, or opportunities.

Develop and provide a public engagement strategy to guide the development of Plan goals, objectives, data, and recommendations. This is expected to include at minimum but is not limited to:

- A user-survey shall be developed to be distributed physically (at meetings and via mail) and electronically (via social media and email) for statistically valid data. The County will provide printing and mailing services for the survey.
- A minimum of three (3) in person public meetings at the beginning of the planning effort to gather information from the general public, and cultural organizations.

- A minimum of five (5) targeted stakeholder group meetings to identify sector-specific concerns and ideas.
- One (1) public meeting to present the draft plan for final feedback.
- The County will also place the Draft Plan on the County website for general comment for a period of 30 days.

Proposer may propose additional feedback gathering strategies consistent with information above and guidance from the steering committee as appropriate.

Consult and coordinate with county staff and steering committee on the selection and advertising of meetings and locations. The Proposer will develop meeting and promotional materials (handouts, surveys, posters, etc.). The County will provide printing services for handouts, surveys, posters, and promotional materials. The Proposer will be responsible for providing all necessary public engagement equipment/materials (i.e. projectors, screens, and all other equipment/materials as needed). All digital presence, promotional, and engagement materials will be communicated through the County's official channels (website, social media, etc.).

All records/information collected and documents generated must be provided to county staff. Provide county staff and steering committee with written meeting minutes/summary for all meetings/events

TASK C: PLAN DEVELOPMENT, RECOMMENDATIONS, & IMPLEMENTATION

The plan should serve as the launchpad for new, greater investments to the sector, as well as development of and investment in human capital and quality of life improvements, with a commitment to equity and inclusion.

Compile a detailed analysis of needs, opportunities, and community priorities from Task A to develop, in collaboration with the steering committee, defined action steps determined to be achievable and of most promise.

Develop a framework for effective regional administrative and investment coordination.

Identify regional projects/initiatives/actions to reach the goals of the Cultural Plan. Each must include development, funding, and management responsibilities. Include multi-sector responsibilities and benefits.

The Cultural Plan recommendations shall be consistent with existing local, county, and regional plans, as well as further the goals of [A Strategy for Prosperity in WNY](#) and

subsequent reports/updates. Review local and regional plans to identify weaknesses and opportunities. Seek strategies to address items identified in the [Initiatives for a Smart Economy 2.0 \(2017\)](#) (I4SE 2.0). Address several weaknesses identified in the WNY REDC SWOT analysis (Appendix A, [A Strategy for Prosperity in WNY](#)), including the need to strengthen the region’s battered image and to foster more coordination and collaboration.

The proposer shall note successful programs, processes, and/or initiatives in comparable locations. The proposer should be aware of New York State’s laws and regulations (example: Constitutional Home Rule) in order to make recommendations appropriate and effective. The proposer may note external limitations, but shall not recommend actions outside of the control of the county, its municipalities, organizations, or businesses.

Identify ways of creating and retaining jobs (writers, teaching artists, curators, cultural/film/theater production workers, contracted creatives, many of which are also entrepreneurs); maximize return on investment (through leveraging municipal and private support and identify further opportunities which can be developed and sustained); be inclusive; identify synergies of employment; support smart growth; and address the cultural needs of youth, adults, and elders, as well as multigenerational needs.

Recommendations from the plan should include both long term and “quick-win” actions, such as adding art to targeted locations, underpasses, creating neighborhood gateways, sidewalk poetry, and murals showing our culture and heritage, designation of cultural districts and linkages between them, activation of vacant storefronts¹ or underutilized/vacant structures/sites, integration of public art into policy/practice, and more as seen in other cultural plans but tailored for Erie County, NY.

Projects included in [State of the Region: Western New York 2021 Annual Report](#) that can be approached as subsequent phases may include, for example, acknowledging and aiding artists as entrepreneurs, job training programs to reduce un- and under-employment, zoning and land use changes to encourage mixed use and affordable housing for arts and artists (and the community at large), placemaking investments, tourism efforts, and other initiatives that would be ideal for public and/or private philanthropic investment/partnerships, including universities.

Develop recommendations to meet goals in an easy-to-reference format, such as by responsibility, sector, timeframe, demographics, locations, or other appropriate grouping.

¹ Example: [Alleyway Theatre’s 2021 “Buffalo Quickies”](#)

Prepare a 10-year implementation matrix/action plan of such recommended actions that includes, but is not limited to, timelines/priority, responsible parties, partnerships, sectors affected, estimated costs, and funding avenues/opportunities.

Deliverables

- Erie County Cultural Plan (draft and final reports) with Implementation Matrix
- Appendix to include summary of SWOT analysis, comments and/or summaries from public and stakeholder meetings, and other survey information
- Presentations of the Plan at various meetings
- Must provide all raw data collected

Funding

There is up to \$124,950.00 in funding available for this project. \$75,000.00 (50%) of project costs are funded by a Regional Council Award – Strategic Planning and Feasibility Study Grant from Empire State Development (ESD). The project must comply with all ESD requirements including but not limited to:

- Requirement to use “Good Faith Efforts,” pursuant to 5 NYCRR §142.8, to achieve an overall Minority and Women-owned Business Enterprise (“MWBE”) participation goal of at least 30% (\$22,500)
- Encouraged to use “Good Faith Efforts,” pursuant to 9 NYCRR §252.2(m), to utilize NYS-certified Service-Disabled-Veteran-owned Business Enterprises (“SDVOBs”)
- Recommendations to be consistent with environmental, historic and smart growth review requirements and local/regional plans

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. BACKGROUND/EXPERTISE OF PARTICULAR VALUE:

- A. Comprehensive cultural planning experience over the past ten years.
- B. Comprehensive and/or strategic planning experience in the past ten years.
- C. Public outreach, data collection, and reporting experience in the past ten years.

Firms should only include project experience of current firm staff.

5. GENERAL PROPOSAL REQUIREMENTS:

A. Firm/Project Team

Firms, or their principals, responding to this RFP should include an organizational chart, identifying the project manager and team members, with their titles and roles, including subconsultants and their roles within the project team.

B. Experience, Depth, and Breadth of Personnel

The project team should have a full-range of relevant industry expertise. Primary personnel in each of the noted disciplines (Item 4, above) must be identified by name and office location, with resumes included, and should demonstrate satisfactory experience in the past 10 years and depth in each of the required disciplines. This should also include identifying the personnel's role within any project and the year(s) in which the work took place. Similar project experiences noted in the proposal should include personnel still employed by the firm. Examples of similar work may be provided.

Firms should only include project experience associated with the staff they are proposing to use on this project.

C. Approach and Methodology

Respondents to this RFP should include a brief narrative explaining their approach. The narrative should outline the products and tasks to be provided in response to the recommended Scope of Work outlined above.

D. Cost and Budget

A maximum of \$124,950.00 is available. Proposer is expected to allocate sufficient funds within the project budget.

The proposer's 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 (there will be no reimbursables).

Cost proposals must include a breakdown by cost and staff hours for the categories outlined. Submit cost proposal in a separate sealed envelope and as a separate PDF file (formatted to print on standard letter size paper) on the flash drive along with the proposal for services.

For the purposes of the proposal submittal, the following categories should be delineated in a Fee Chart, showing a lump sum amount for each category and total lump sum cost, inclusive of all project costs:

- A. VISIONING, GOALS, AND OBJECTIVES**
- B. PUBLIC OUTREACH AND ANALYSIS**
- C. PLAN DEVELOPMENT, RECOMMENDATIONS, AND IMPLEMENTATION**

E. Hourly Personnel Rates

As a supplement, a schedule of billable rates for all key personnel (Principal in Charge, Project Manager, primary personnel for each design discipline, etc.) must be included in the cost proposal. Cost proposals must also include the ranges of billable rates for technical staff and support personnel. Firms shall note separately the firm's Overhead and Profit rate that is to be added to each hourly rate.

F. Schedule

Include a formal project timeline or Gantt Chart with milestones, tasks, and deliverables to be completed. Planning process from contract execution to final report is expected to be 12 months.

6. SCORING, RANKING AND SELECTION PROCESS:

Scoring and ranking will include the following factors:

A. Background of Firm

1.	Experience and performance of firm	10	_____
2.	Specific experience on this type of project	15	_____
3.	Staff assigned to project	10	_____
4.	Local presence of firm	10	_____
5.	M/WBE participation	10	_____

B. Approach to project

1.	Understanding of County’s program and intent	15	_____
2.	Understanding of tasks	15	_____
3.	Schedule	10	_____
4.	Other factors	5	_____
Total		100	_____

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

7. SUBMISSION OF PROPOSALS:

- A. All firms wishing to participate in this process must register electronically with Mariely Ortiz, Senior Planner at Mariely.Ortiz@erie.gov. All further information and contact from Erie County will be sent electronically.
- B. Respondents are encouraged to be as concise as possible in their responses.
- C. **Proposers MUST sign the Proposal Certification attached hereto as Schedule “A.” Unsigned proposals will be rejected.**
- D. **One (1) original, six (6) print copies, and one (1) electronic copy in PDF format (formatted to print on standard letter size paper) on flash drive of the proposal are required. 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 signed. Unsigned proposals will be rejected.**
- E. **Proposals must be received at the below address no later than 12:00 PM, March 9th, 2023:**

**Mariely Ortiz
Senior Planner
Erie County Department of Environment & Planning
Rath Building, Room 1009
95 Franklin Street
Buffalo, New York, 14202**

F. The County does not assume the responsibility or liability for costs incurred by firms responding to this RFP or to any subsequent requests for interviews, additional information, submissions, etc. prior to issuance of a contract.

G. All respondents must register electronically with Erie County to Mariely Ortiz, Senior Planner at Mariely.Ortiz@erie.gov. All subsequent notifications or addendums will be sent only to electronically registered proposing firms.

H. Any requests for RFP interpretations should be made electronically to Mariely Ortiz, Senior Planner at Mariely.Ortiz@erie.gov by February 24th, 2023. 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.

I. All proposers 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 firms may be interviewed prior to recommendation for selection.

J. The highest ranking firm 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.

K. Proposing firms 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. Proposers should consider this when scheduling staff time and anticipating project commencement.

8. 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 RFP 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

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

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