



ERIE COUNTY

REQUEST FOR PROPOSAL (RFP)

TO PROVIDE CONSULTING SERVICES TO UPDATE THE 2012 ERIE COUNTY
AGRICULTURAL AND FARMLAND PROTECTION PLAN

RFP # #2023-051VF

AUGUST 14, 2023

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

REQUEST FOR PROPOSALS

1. INTRODUCTION

Proposals are being solicited from AGRICULTURAL AND LAND USE PLANNING FIRMS (hereafter “Consultant”) to prepare an updated County-wide Agriculture and Farmland Protection Plan (hereafter “Plan”). Proposers interested in responding are invited to review this request and submit required materials.

It is Erie County's (hereafter “County”) intent to select the Proposer that provides the best solution for the County's needs.

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.

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.

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.

2. GENERAL INFORMATION AND REQUIREMENTS:

- A. All firms wishing to participate in this process must register electronically with Sarah Gatti at sarah.gatti@erie.gov. All subsequent notifications or addendums will be sent only to electronically registered proposing firms.**
- B. Each proposal shall be prepared simply and economically avoiding the use of elaborate promotional materials beyond what is sufficient to provide a complete, accurate and reliable presentation. Specific instructions for the proposal format and content are outlined below. The total number of pages submitted should not exceed fifteen (15) double sided pages, thirty (30) written pages.**
- C. One (1) original, four (4) copies, and one (1) PDF copy shall be submitted. Proposals MUST be signed using the attached Schedule A: Proposer Certification. Unsigned proposals will be rejected.**
- D. Cost proposals shall be submitted with a separate envelope containing the cost proposal necessary for this request.**
- E. Submission of the proposals shall be directed to:**

Mark Rountree, Chief Planner
Erie County Department of Environment & Planning
Rath Building, Room 1053
95 Franklin Street
Buffalo, New York, 14202

All proposals must be delivered to the above office on or before September 19 **at 3:00 p.m.** Proposals received after the above date and time will not be considered. Erie County is under no obligation to return proposals.

- F.** Any requests for RFP interpretations should be made electronically by September 5, 2023, to [Sarah Gatti at sarah.gatti@erie.gov](mailto:sarah.gatti@erie.gov). No requests for oral interpretations via telephone or in person 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.**
- 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.** Information on the Standard Insurance Provisions required of companies selected as a contractor of this service is included within this RFP. This document is for informational purposes only and is not to be submitted by the Proposer for the purposes of this RFP.
- J.** Contracted consultants will be expected to agree to comply with [Erie County Executive Order 13](#) (2014), and the Company shall make such records available, upon request, to the County's Division of Equal Employment Opportunity for review. All contract holders will be required to sign the Erie County Equal Pay Certification. The Equal Pay Certification provides the County with the right, upon reasonable notice and at reasonable times, to inspect the books and records of the Company, its offices and facilities, for the purpose of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to confirming the Company's compliance with Erie County Executive Order No. 13 (2014). Violation of the provisions of Executive Order 13 (2014), which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of a contract, and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.
- K.** The Minority Business Enterprise (MBE) and Women's Business Enterprise (WBE) participation goals for this project will be 15% MBE and 5% WBE. A prime M/WBE may self-fulfill the M/WBE goal. The prime M/WBE may also engage a M/WBE firm as a sub-consultant to get the sub firm an opportunity at work it may not otherwise obtain. **NOTE: THAT THE BOTH THE MBE AND THE WBE GOAL SHOULD BE FULFILLED IF THE PRIME IS A MBE OR WBE.** For information on Erie County EEO requirements contact Mr.

James Blackwell, Director of EEO, (716) 858-7542 or at deeo@erie.gov. Lists are available at www3.erie.gov/eo/mbe-wbe-resource-list.

- L. The Service-Disable Veteran-Owned Business (SDVB) participation aim for this project is 6%. For information on Erie County EEO requirements contact Mr. James Blackwell, Director of EEO, (716) 858-7542 or at deeo@erie.gov.
- M. All Proposers must disclose the name, title, and department of any employee or officer who was an employee or officer of Erie County within the 12 months immediately prior to the proposal due date.
- N. All Proposers must provide a list of at least 3 references from community partners and collaborators or an individual with knowledge of and experience with the specific services being offered.
- O. 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.
- P. 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. Consultants should consider this when scheduling staff time and anticipating project commencement.

SCHEDULE

Consultants should assume an approximately 12 to 18-month time commitment to update the Plan from contract execution.

FUNDING

The Plan update is funded by the County. Additional funding from the NYS Department of Agriculture and Markets (AGM) may be secured in the future.

3. BACKGROUND

In 2011, Erie County was awarded a matching grant from New York State to support preparation of an Agriculture and Farmland Protection Plan. The Department of Environment and Planning (DEP), working closely with the community, the Erie County Agriculture and Farmland Protection Board (AFPB), and its consultant, American Farmland Trust (AFT), completed the *Erie County Agricultural and Farmland Protection*. The Plan was completed in 2012, certified by NYS in 2013 and is available to view at: erie.gov/agplan2013. The 2013 Plan was intended to have a planning horizon of ten years.

According to the 2017 Census of Agriculture, Erie County agriculture was valued at \$130 million dollars, ranking seventeenth in the state. Revenue was divided almost equally between crops and livestock, poultry and products. Among crops, Erie County ranks third in the state for the sale of nursery, greenhouse, and floriculture products. The sale of vegetables, melons, potatoes, and sweet

potatoes is ranked tenth throughout NYS. Among livestock products, dairy represents the highest market value of agricultural products sold and is ranked 20th in the State.

As of 2022, 18,523 parcels were enrolled in Erie County Agricultural Districts. Per the 2017 Census of Agriculture, Erie County had 940 farms. This represents a decrease of 10% from 2012. Despite little population growth, development in the County has sprawled and conversion pressure is present.

Since the Plan's 2013 certification, the agricultural environment in Erie County has changed and new issues have emerged. In addition to these changes, the County and its partners have implemented many of the recommendations contained with the Plan. In light of this, the County desires to update the Plan.

The continued emergence of a vibrant urban agricultural economy, the importance of climate-friendly farming techniques, and the increase of large-scale solar development are all among the issues the updated Plan should address.

Erie County is also developing an industrial park in the Town of Evans dedicated to agribusiness. The intent of the industrial park is to provide a primary or secondary market for local agricultural products or provide services such as cold storage which support the agricultural industry.

DEP will lead the update process, in close cooperation with the AFPB, which will act as the Steering Committee and will be an integral partner throughout the project. The County intends to submit the proposed updated Erie County Agricultural and Farmland Protection Plan to the NYS Department of Agriculture and Markets (hereafter "AGM") pursuant to NYS Codes, Rules, and Regulations Section 390.3 (CRR 390.3) for Commissioner approval. The proposed update shall minimally comply with the requirements of CRR 390.3. You can view these regulations at bit.ly/crr3903.

4. SCOPE OF SERVICES

The updated Plan will provide a blueprint for the preservation and enhancement of farmland and the Erie County agricultural industry over the next ten years. The Plan should consider existing issues and topics that have emerged and/or intensified since 2012, including:

- Workforce development.
- Agriculture operator consolidation.
- Farm labor shortages and regulations.
- Supply chain disruptions.
- Climate change and climate-friendly farming practices.
- Electrification of agricultural vehicles.
- Automation.
- Broadband availability.

- Urban agriculture and community gardens, including Best Management Practices (BMPs) for urban and suburban settings.
- Food Donation and Food Scraps Recycling Law.
- Solar/renewable development, including the identification of lands vulnerable to this type of development (i.e., near electric transmission lines).
- Food systems, including addressing areas of low food access.
- Emerging markets (i.e., cannabis).
- Residential developments.
- Farm ownership succession and barriers to entry for all farmers and particularly beginning, woman, and veteran farmers, as well as historically disadvantaged farmers and those who have been subjected to discrimination because of their identity.
- Analysis of farm ownership characteristics.
- Analysis of potential agricultural industry changes.

Services to be rendered by the selected Consultant shall be performed to the satisfaction of the Commissioner of DEP and in the form and manner approved by them. Such services shall include the following items.

A. REVIEW OF 2012 ERIE COUNTY AGRICULTURAL AND FARMLAND PROTECTION PLAN

- Review the 2012 Erie County Agricultural and Farmland Protection Plan.
- Assessment and evaluation of the 2012 Plan implementation, including meeting goals and objectives.
- Assessment of the items to retain, review, eliminate, and update.
- Evaluate the vision, goals and implementation status with the Steering Committee.
- Assessment of the assumptions, vision, and goals for relevancy in the 2023 Agricultural and Farmland Protection Plan update.

Deliverable(s): Assessment of the 2012 *Erie County Agricultural and Farmland Protection Plan* and framework for the update of the Plan. This framework will shape the overall project direction and scope of the project.

B. REVIEW EXISTING CONDITIONS AND PLANNING DOCUMENTS

Review existing planning documents, current projects impacting agricultural lands (i.e., the Erie County Agribusiness Industrial Park), and the County's current agricultural economy, including:

- Review additional County and municipal planning documents (i.e., *One Region Forward*, *the Erie Niagara Framework for Regional Growth*, *the Buffalo and Erie County Food Action Plan*, *Erie County Community Climate Action Plan*, local farmland protection plans, and other food systems plans).
- Interview the AFPB.

- Interview urban, suburban, and rural farmers across various agricultural sectors, including beginning, women, veteran, and historically disadvantaged farmers, and those who have been subjected to discrimination because of their identity.
- Interview community and/or non-profit organizations involved in the food system economy, including but not limited to: Food Policy Council of Buffalo and Erie County (FPC), Greater Buffalo Urban Growers (GBUG), and the Good Food Buffalo Coalition.
- Interview public and private agencies involved in the agricultural economy, including but not limited to: Cornell Cooperative Extension of Erie County (CCE), Erie County Soil and Water Conservation District (SWCD), Erie County Farm Bureau (ECFB).
- Interview banks and agribusinesses.
- Interview DEP and Erie County Industrial Development Agency (ECIDA) regarding the development of an agribusiness park in the Town of Evans.
- Interview consumers, both rural and urban, and at the individual and institutional level.
- Review 2022 United States Census of Agriculture data, if available.
- Review DEP maps of existing lands enrolled in NYS Agricultural Districts, currently protected lands, and lands currently receiving an Agricultural Assessment.
- Supply Chain Analysis – relative to the S.W.O.T. analysis
 - Evaluation of major agribusinesses supply chains for potential opportunities as it pertains to new agricultural products opportunities for agricultural producers.
 - Evaluate existing agricultural operations support infrastructure.

Deliverable(s): An overview of the County’s current agricultural economy, including existing markets, opportunities for expanded production of current products, potential new agricultural products, new products based upon expected climate change, and untapped markets; an analysis of barriers to markets; and an analysis of the agricultural economy’s strengths, weaknesses, opportunities, and threats (S.W.O.T. analysis).

C. IDENTIFY, SELECT, AND MAP FARMLAND PROPOSED TO BE PROTECTED

(Respondents are urged to review the mapping currently available at erie.gov/checkagstatus)

- Assessment of 2012 Erie County Agricultural and Farmland Protection Plan maps with Steering Committee, relative to effectiveness for organizational operations and objectives related to the preservation of agricultural lands.
- Determine criteria for defining agricultural lands to be protected within Erie County, including:
 - Examine recently completed farmland protection planning documents from counties similar to Erie County in size and agricultural economy.
 - Review recent comprehensive plans and farmland protection plans to identify local goals.
 - Consult with the United States Department of Agriculture (USDA) Natural Resources Conservation (NRCS) Service to identify prime, unique, or important soils.
 - Identify lands enrolled in NYS Agricultural Districts, lands receiving Agricultural Assessments, lands that are or are adjacent to permanently protected parcels, and other

active farmlands (including agricultural support land, urban farms, and community gardens).

- Identify local development trends and land subject to development pressure by gathering information on planned or permitted subdivisions, previous approvals, stub roads, paper streets, and curb cuts. DEP is able to provide limited data on residential construction within the last decade.
- Identify planned solar farms.
- Identify locations of secondary industry associated with agriculture (e.g., agricultural support businesses and agencies).
- Analyze current aerial photography to identify crop- of forest-land, and any other underutilized land, that may be used for biomass, or other production.

Deliverable(s): A farmland protection matrix, including updated mapping of agricultural lands.

D. SELECT, AND MAP THE LOCATION OF ANY LANDS THAT ARE PROPOSED FOR PROTECTION.

- Determine a methodology for assigning a value based upon the following criteria: value of the land in the County's agricultural economy, value of the land in the open space system, and degree of conversion pressure. *Note: Mapping methodology from the 2012 Plan should be reviewed and existing maps updated as part of Task C. Methodologies may need modification.*
- Identify alternative criteria for selecting lands for protection with agriculture focus groups, AFPB and involved agencies such as the SWCD, CCE, ECFB, USDA, WNYLC, and AFT.
- At a minimum, the following maps should be produced, modified, or updated:
 - Land in Erie County Agricultural Districts
 - Agricultural Parcels and Cropland Coverage
 - Agricultural Soils Rating
 - Natural Resources Rating
 - Natural Resources Rating Features
 - Framework for Regional Growth Policy Areas
 - Clusters of Parcels with High Agricultural Soils Value
 - Agricultural Parcels Development Pressure Rating, including proximity to electrical transmission lines
 - Forested Parcels
- Recommendation of the final selection criteria to the AFPB for approval.
- Coordinate with the Erie County Office of Geographic Systems (OGIS) regarding format and files.

Deliverable(s):

- A digital map in PDF format and boundary description (list of parcels by SBL) of lands prioritized for protection.
- Updated digital and PDFs of maps contained in the 2012 Plan. Additional maps to accomplish the above tasks.
- All associated GIS files (i.e., shapefiles, geodatabase files) of maps must be provided in a format satisfactory to OGIS.

E. DEVELOPMENT OF GOALS, OBJECTIVES, AND IMPLEMENTATION PLAN

- In consultation with the AFPB, and building upon knowledge gained during Task A, identify attainable and measurable goals with accompanying objectives and implementation projects. Objectives must be tasks the County and / or related organizations (i.e., SWCD, CCE, ECFB) have the ability to influence.
- Work with project partners to identify potential implementation strategies and funding sources.
- Develop a written implementation matrix that clearly defines key projects, objectives, responsible agencies, cost estimates, funding sources, and a timeline for implementation.

Deliverable(s): A report of attainable and measurable goals with accompanying objectives and projects and an implementation matrix showing key projects, objectives, responsible agencies, cost estimates, potential funding sources, and an implementation timeline.

F. EVALUATE EXISTING COUNTY AND MUNICIPAL LAND USE PLANS AND PROGRAMS

- Review existing County and municipal planning documents for consistency with the Plan, including, but not limited to: capital budgets, comprehensive plans, local agriculture and farmland protection plans, and water/sewer expansion plans.
- Review existing County and municipal agency programs and policies for consistency with the goals and strategies, including but not limited to the: ECIDA, the Greater Buffalo Niagara Regional Transportation Council (GBNRTC) Transportation Improvement Program (TIP), Erie County Water Authority, Erie County General Municipal Law 239-l and -m land use review process.
- Evaluation of County and municipal planning and land use programs for consistency with the policies and the goals of the Plan.
- Compilation of NYS zoning codes with best practices related to zoning for agricultural protection. Recommended items to integrate within suburban and rural comprehensive planning and zoning to better protect agricultural lands and prevent residential conversion.
- Compilation of NYS zoning codes with best practices related to zoning for urban agriculture and community gardens. Compiled documents should reflect a cohesive approach to zoning for urban agriculture and community gardens, including protection of public health, safety, and welfare as related to agricultural.

Deliverable(s):

- A matrix indicating the objectives of the selected plans and whether they are consistent with goals identified in this process and the overall mission of promoting agricultural land uses. A table showing the status of local regulations and the extent to which they are or are not protective of agricultural lands.
- A planning and zoning toolkit, including a compilation of best practices in comprehensive plans and zoning codes with protective agricultural features that outline key protective attributes should be identified. The toolkit will also include recommended items to integrate within suburban and rural comprehensive plans and zoning to better protect agricultural lands and prevent conversion, and recommended items to integrate within urban comprehensive plans and zoning to better address urban agriculture and community gardens.

G. PUBLIC ENGAGEMENT

- Work with the Steering Committee to identify key farmers, community leaders, agencies, and institutions to involve in the planning process.
- Using the information gathered in Task 10, assemble four focus groups representing the eastern, northern, southern, and urban agriculture sectors in the County. These groups will meet periodically to guide Plan development.
- Identify and implement methods to collect information such as interviews, public information meetings, and surveys.
- Collaborate with the AFPB and project partners to identify opportunities for public meetings and workshops.
- Attend and prepare content for one public hearing which will be held prior to adoption.
- Attend and prepare content for one general public meeting.
- Attend and prepare content for one Erie County Legislative committee meeting.
- Identify opportunities to use print and digital media, including online surveys and interactive mapping tools.
- DEP will create a webpage dedicated to the Plan and facilitate a 45-day public comment period.
- The Consultant shall review public comments gathered at the above public engagement meetings and efforts with DEP and the Steering Committee, issue a response (if required), and potentially integrate changes into the draft document.

Deliverable(s): A public participation plan encompassing the lifespan of the Plan development process and implementation of that plan after approval.

H. DRAFTING OF PLAN

- The Consultant shall deliver a strategic and focused Plan. The Plan should meet the standards set forth in the “Key Elements of a Good County Agricultural Protection Plan” published by the AGM. All Plan components must be developed in conjunction with DEP, and to the satisfaction of the AFPB, who will recommend Plan adoption to the Erie County

Legislature. The County intends to submit the Plan to AGM pursuant to CRR 390.3 Commissioner approval.

Deliverable(s): Complete digital versions in MS Word and PDF format in a singular printable format. All associated ArcGIS files must also be submitted. SEQR materials necessary to approve the Plan.

Other Project Particulars (*Tasks include but are not limited to*):

1. The CONSULTANT shall prepare draft documents (plan content, maps, etc.) for final review by the County.
2. The CONSULTANT shall schedule a meeting(s), to ensure that all comments, feedback and changes are incorporated into the final documents.
3. The CONSULTANT shall provide written meeting minutes to the County for all meetings during the Project.
4. All payment applications made by the CONSULTANT and any sub-consultants must be submitted to the County in a format acceptable to the County for reimbursement of funds.

This Scope of Work has been prepared as a proposal guideline. It is the respondent's responsibility to add any other CONSULTANT services that the consultant feels would be necessary to complete the project.

5. GENERAL PROPOSAL REQUIREMENTS:

PROPOSAL CONTENT

The Proposal should address the following areas below:

- Organizational Chart
 - Include prime consultant and sub consultant to be used.
 - Key staff with titles, team role and office location should be identified.
- Project Understanding
- Project Approach
- Firm's Qualifications
- Experience with Similar Projects
- Experience working with Proposed Sub-Consultants
- Ability to Meet the Project Schedule Based on Workload
- Methodology Used to Assure Quality Control and Assurance
- M/WBE Utilization Plan with firm names
- Assumptions
- Project cost proposal (SEPARATELY SEALED ENVELOPE)

The total number of number of pages submitted should not exceed 15 double-sided pages. Resumes for key staff, limited to 1 single-sided page per staff member, may be submitted. Resumes will not be counted toward the maximum number of pages allowed.

The top-ranked firms may be requested to prepare and give oral presentations before the selection committee.

Note:

The following pages are not considered part of the 15 double-sided pages:

- Cover Sheet (Page 19 of RFP)
- General Title Page
- Schedule A
- Schedule B
- Resumes of staff assigned to the project only –Limit one page per resume – relevant experience should be within the last 5 years
- Section Dividers

A. Cost and Budget

The CONSULTANT contract will be a lump sum cost contract. Therefore, all proposals must contain a Lump Sum Cost Proposal for the scope of services delineated, inclusive of all expenses. Proposals must include a breakdown by cost and man hours for the categories outlined. **Submit cost proposal in a separate sealed envelope along with the proposal for services.**

For the purposes of the cost proposal submittal, the following categories should be delineated in a **Fee Chart**, showing a lump sum amount and man hours for each category:

- Records Review
- Mapping
- Public Engagement
- SEQR
- Drafting of Plan
- Reimbursables

Hourly Personnel Rates

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

B. Schedule

The anticipated schedule for the project is:

RFP Release Date:	August 14, 2023
Pre-Proposal Meeting:	August 29, 2023
RFP Questions Due:	September 5, 2023
RFP Question Response Date:	September 8, 2023
Proposal Due Date:	September 19, 2023

The pre-proposal meeting will be held virtually at 10:00AM on August 29, 2023. Information regarding the pre-proposal meeting will be distributed only to registered consultants.

6. SELECTION CRITERIA

The selection committee will review the proposal submissions and select the most highly qualified firm according to the following criteria, listed in order of decreasing importance:

Project understanding and understanding of County's program and intent	<u>20%</u>
Experience and qualifications of proposed staff	<u>20%</u>
Experience of firm with similar kinds of projects and/or work	<u>20%</u>
Logistics and familiarity with the project area	<u>15%</u>
Local presence of firm	<u>10%</u>
Organization and Scheduling	<u>10%</u>
Percentage of Proposed M/WBE Participation	<u>5%</u>

Firms should only include project experience from staff that are currently with the firm.

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 experience to perform the proposed services.
- Proposer's demonstrated capability to provide the services.
- An evaluation of the proposer's projected approach and plans to meet the requirements of this RFP.
- Evaluation of the professional qualifications, background and resume(s) of individuals involved in providing 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.
- Ease of access to project manager and others providing services.
- Utilization of firms certified by Erie County as WBE/MBE. Said firms can be obtained by contacting the Erie County Division of Equal Employment Opportunity at (716) 858-7542.
- Firm's performance under any previous contractual engagement with Erie County.
- Reference checks
- Proposer's financial ability to provide the services.
- A determination that the proposer has submitted a complete and responsive proposal as required by 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.

7. 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 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 for the required services;
 - By submitting a proposal, the Proposer agrees and understands that the County 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, 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 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 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 or informalities 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 an RFP and not a bid, the County reserves the right to apply the case law under New York State General Municipal Law § 103 regarding bidder responsibility in determining whether a Proposer is a responsible vendor for the purpose of this RFP process; and
- 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.

8. 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.

The term of the contract shall be for a One (1) year period commencing _____, 20__ and terminating _____, 20__ The County, in its sole discretion may extend the agreement beyond its initial term for up to two (2) additional year periods at the same prices and conditions.

9. 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 Proposer agrees:

that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence of the County, the Proposer shall defend, indemnify and hold harmless the County, its officers, employees, and agents from and against the Proposer’s proportional share of liability, damage, claim, demand, cost, judgment, fee, attorneys’ fees, or loss which the County may sustain, be subject to, or be caused to incur because of or as a result of:

- a) any wrongful act, error, or omission of the Proposer or third-parties under the direction or control of the Proposer; or
- b) any willful misconduct of the Proposer or third parties under the direction or control of the Proposer; or
- c) any infringement of any claimed copyright or patent right of designs, plans, drawings, or specifications furnished by the Proposer or its sub consultant. Nothing contained herein shall create or give to third parties any claim or right of action against the County or the Proposer beyond such as may legally exist without regard to this provision.”

Upon execution of any contract between the Proposer and the County, the Proposer will be required to provide proof of the applicable insurance coverage. Insurance coverage in amount and form, as outlined in **Schedule C**, shall not be deemed acceptable until approved by the County Attorney.

10. 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.

NOTE: All contracts executed by the Erie County Department of Law will be posted electronically on the Department's website.

11. 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.

12. 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. Further, all Proposers must disclose the name of any County employee who owns, directly or indirectly, an interest of ten percent (10%) 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.

13. 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.

14. 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.

15. 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.

ERIE COUNTY DEPARTMENT OF LAW REP COVERSHEET
RFP# #2023-051VF

Name of Organization:	
Organizational Mailing Address:	
President/CEO:	
President's/CEO's Phone Number:	
President's/CEO's Email:	
Project Contact Person:	
Project Contact Person's Phone Number:	
Project Contact Person's Email:	
Company Website:	
Federal Employer ID# (FEIN):	
Is company debarred/suspended from receiving funds/doing business with the Federal government?	
Please provide DUNS #, if available:	
Is respondent a non-profit or unit of government?	
If non-profit, please provide 501(c)(3) not-for-profit entity ID # and date established as such:	
If non-profit, please provide roster of respondent's volunteer board:	Please provide attachment
Is company a Certified Minority Business Enterprise/ Women's Business Enterprise (MBE/WBE)?	Please provide the Erie County MBE/WBE Certification Letter as attachment
Is company a Veteran-Owned Business?	Please provide the letter indicating their company is 51% or more veteran-owned as attachment
Is company a Service-Disabled Veteran-Owned Business?	Please provide NYS Certification Letter as attachment
Name, title, and department of any employee or officer who was an employee or officer of Erie County within the 12 months immediately prior to the proposal:	

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"

Erie County Equal Pay Certification

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together "Equal Pay Law"). The average compensation for female employees is not consistently below the average compensation for male employees, taking into account mitigating factors. We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

We have evaluated wages and benefits to ensure compliance with the Federal Equal Pay Law.

Signature

Verification

STATE OF _____)
COUNTY OF _____) SS:

A)
_____, being duly sworn, states he or she is the owner of (or a partner in) _____, and is making the foregoing Certification and that the statements and representations made in the Certification are true to his or her own knowledge.

B)
_____, being duly sworn, states that he or she is the
(Name of Corporate Officer)
_____, of _____,
(Title of Corporate Officer) (Name of Corporation)

the enterprise making the foregoing Certification, that he or she has read the Certification and knows its contents, that the statements and representations made in the Certification are true to his or her own knowledge, and that the Certification is made at the direction of the Board of Directors of the Corporation.

Sworn to before me this _____ Day of _____, 20____

Notary Public

SCHEDULE "C" - COUNTY OF ERIE 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 Concessiona ires 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	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	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.