

COUNTY OF ALBANY

REQUEST FOR PROPOSALS

NEW YORK STATE LICENSED ARCHITECT/ ENGINEER SERVICES TO PROVIDE DESIGN AND CONSTRUCTION RENOVATIONS AT THE CAPITAL DISTRICT JUVENILE SECURE DETENTION FACILITY

ALBANY COUNTY DEPARTMENT OF GENERAL SERVICES

RFP #2018-030

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Background:

Capital District Youth Center, Inc. (CDYCI) is the contract provider who administers the Capital District Juvenile Secure Detention Facility, the first multi-county secure detention center for youth in the nation. Administered by CDYCI and operated by the Berkshire Farm Center for Youth, the Juvenile Secure Detention Facility has provided very significant savings for the member counties of Albany, Rensselaer, Saratoga and Schenectady since it opened in 1997.

CDYCI was created jointly by the four counties as a not-for-profit public corporation to perform a municipal service pursuant to Internal Revenue Service Ruling 63-20, with the authority to issue tax exempt bonds. All four counties are independent and equal partners in terms of decisions regarding the Juvenile Secure Detention Facility's construction, operation, and financing. The Executive Director of the Capital District Regional Planning Commission serves as Chief Administrator of the Capital District Youth Center, Inc.

The 30,000 square foot Facility sits on 4.16 acres off Albany-Shaker Road in Colonie, NY. Originally built for 16-beds, the Facility was expanded to 24 beds with the addition of an 8-bed wing in 2000. The Facility includes a 13-bed wing, an 8-bed wing and a 3-bed pod. It also includes administrative offices, classroom and activity spaces, gymnasium and cafeteria.

The Facility currently operates as a 16-bed facility, accommodating male and female Juvenile Delinquents (JD's) and Juvenile Offenders (JO's) in separate housing units. The four member counties have reserved beds (Albany, 7.5; Rensselaer, 1; Saratoga, 1; Schenectady, 3) and priority for beds over the 17 other counties who have contracts to send youth to the Facility.

Raise the Age – Overview of Requirements:

On April 10, 2017 Governor Cuomo signed “Raise the Age” (RTA) into law in New York. By October 2019, New York will no longer automatically prosecute all 16- and 17-year-olds as adults. The law takes effect for 16 year olds on October 1, 2018 and 17 year olds on October 1, 2019. A new “Adolescent Offender” (AO) Category was established for 16 and 17 year olds. How to best accommodate this additional category of offender at the Secure Detention Facility is the subject of this RFP.

A. Specialized Secure Detention Facility

According to the RTA law, pre-trial detention for AOs will be in newly created “specialized secure detention facilities” (SSD facilities) for older youth. These facilities cannot be co-located with local jails, but can be co-located with existing juvenile secure detention (SD) facilities.

SSD Facility Requirements¹

- AOs must be assigned to housing units separate from JDs and JOs;
- AO’s, JD’s and JO’s may share common spaces (e.g. cafeteria, medical, vocational and recreational), but procedures must be employed to prevent physical access between the populations;
- On a case-by-case basis, AO’s, JD’s and JO’s may be allowed to share space for educational purposes, given limited staff, space or scheduling; and
- Abide by all OCFS and SCOC regulations, as well as guidance from the Albany County Sheriff (from the counties named below), including enhanced staffing ratios and security protocols for AOs.

Draft regulations released on December 5, 2017 are available here <http://cdrpc.org/wp-content/uploads/2018/01/Draft-Regulations.12.5.2017.pdf>

The combined existing Juvenile Secured Detention Facility with the needed Specialized Secure Detention Facility will need to accommodate four populations: Male JD and JO; Female JD and JO; Male AO; and Female AO. As described above, the Facility is currently designed to accommodate three groups.

¹On or about December 5, 2017, the NYS Office of Children and Family Services issued proposed regulations regarding Specialized Secure Detention Facilities. All proposals shall meet those regulations, and, in addition, the final regulations once they are promulgated.

B. Population/ Capacity Analysis

According to a preliminary analysis conducted by the Capital District Regional Planning Commission the potential demand versus existing capacity at the Facility reveals a potential capacity deficit for Male AOs, an existing deficit for the Female JD and JO population typically housed in the 3 bed pod, and currently no capacity to accommodate Female AO's. An overview of the analysis is available here <http://cdrpc.org/wp-content/uploads/2018/01/RTA-Population-Analysis.pdf>. A more granular analysis is currently underway to examine the potential sentencing and diversion patterns of the 16-17 year old population upon RTA implementation which will further inform the population demand estimates.

SECTION 1: PURPOSE

- 1.1 As more fully described in Section 4. SCOPE OF SERVICES below, CDYCI is seeking proposals from a New York State licensed Architect/Engineer to conduct/develop the following for the Facility:

Phase 1 Facility Conditions Assessment, including, but not limited to, the following:

- a) an inventory of all building systems, along with the development of a capital plan for service, maintenance and replacement, if any, of those systems; and
- b) evaluation of interior and exterior security systems, including recommendations, if any, regarding improvements in existing building and integrations with any new housing units proposed.

Phase 2 Facility Modifications and/or Expansion Alternatives, including Concept Designs to accommodate projected population demand including cost estimates.

Phase 3 Complete Design and Construction Documents for the selected renovations, prepared in compliance the competitive bid for multiple prime contracts requirements under N.Y. General Municipal Law §§101 and 103 ("Wicks").

- 1.2 Regarding the Proposal, the Proposer shall provide a fixed price for the Phase 1 facility conditions assessment and the Phase 2 modifications and/or expansion concept designs. Costs for Phase 3 complete design/construction documents will be based on the rates provided in the proposal.
- 1.3 The renovation project shall be in compliance with the Building Code of New York State, Part 180 Juvenile Detention Facilities Regulations, draft regulations for Specialized Secure Detention Facilities referenced above, and all referenced standards. 1.4 As described above, the Facility currently operates as a juvenile SD facility. Phase 3 Design/Construction Documents shall be developed in a manner which limits interruption of existing detention operations.
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- 1.5 Hazard material investigation and reporting shall be provided, with required abatement design included, in the Phase 3 Design/Construction Documents to be developed for this Project.
- 1.6 A PRE-PROPOSAL CONFERENCE WILL BE HELD on **Thursday, March 8, 2018 at 1:00 PM** at the Capital District Regional Planning Commission, One Park Place, Suite 102, Albany, New York 12203. Following the meeting, there will be a tour of the Capital District Juvenile Secure Detention Facility. This will be the only scheduled conference. Proposers interested in submitting Proposals are strongly urged to attend.

SECTION 2: RECEIPT OF PROPOSALS

- 2.1 Five (5) copies, and one (1) electronic copy (CD or flash drive) of the Proposal, and all other required documents must be submitted, sealed in an opaque envelope clearly marked with the name and number of the Proposal, and the name and address of the Proposer. Proposals must be received no later than 4:30pm on Friday, March 16, 2018, at the following address:
- Albany County Purchasing Division
112 State Street, Room 820
Albany, NY 12207
- 2.2 The Proposal submitted is the document upon which Albany County will make its initial determination regarding the Proposer's qualifications, understanding of the project's scope and objectives, methodology, and ability to complete all of the services.
- 2.3 Those submitting Proposals do so entirely at their expense. There is no express or implied obligation by the County to reimburse any firm or individual for any costs incurred in preparing or submitting Proposals, preparing or submitting additional information requested by the County, or for participating in any selection interviews.
- 2.4 Submission of any Proposal indicates acceptance of the conditions contained in the RFP, unless clearly and specifically noted otherwise in the Proposal.
- 2.5 The County reserves the right to reject any and all Proposals, in whole or in part, submitted in response to this RFP.
- 2.6 The County reserves the right to waive any and all informalities and to disregard all nonconforming, non-responsive or conditional Proposals
- 2.7 The County may, at any time by written notification to all Proposers, change any portion of the RFP described and detailed herein.
- 2.8 Proposals will be examined and evaluated by Albany County and CDYCI.

- 2.9 During the evaluation of Proposals, Albany County may require clarification of information or may invite Proposers to an oral presentation to amplify and or validate Proposal contents.

SECTION 3: QUALIFICATION OF PROPOSER

- 3.1 Provide a statement of Proposer qualifications, including:
- 3.2 Name and a brief history and description of your firm.
- 3.3 Your firm's professional staff members who will be involved in this engagement with the County, and the experience each possesses and the location of the office from which each work.
- 3.4 Name and title of person(s) authorized to bind the Proposer, together with the main office address, telephone number (including area code) and email address.
- 3.5 Your firm's experience with the design and renovation of secure detention facilities that are currently occupied.
- 3.6 At least two (2) references from similar projects including name, addresses, telephone numbers and email addresses.
- 3.7 Any additional information that would distinguish your firm in its service to the County.
- 3.8 Proposer shall include a completed "Vendor Responsibility Questionnaire" (Attachment "C") with the Proposal.
- 3.9 In addition, the County may make such investigations it deems necessary to determine the ability of the Proposer to perform the work. The Proposer shall furnish to the County, within five (5) days of a request, all such information and data for this purpose as may be requested. The County reserves the right to reject any Proposal if the information submitted by, or investigation of, such Proposer fails to satisfy the County that such Proposer is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional Proposals will not be accepted.

SECTION 4: SCOPE OF SERVICES

- 4.1 Architect/Engineer shall be responsible to propose/develop : (1) a complete Facility Conditions Assessment of all the building systems at the Capital District Juvenile Secure Detention Facility, to use as a basis to propose alternatives for building modifications or expansion to accommodate two male and two female group populations in separate housing units, (2) Concept Designs that accommodate the projected population demands at the Facility; and (3) Complete Design/Construction Documents for the selected renovations.
- 4.2 Phase 1: Facility Conditions Assessment shall include an evaluation and assessment of all building systems, including but not limited to structural, architectural,

mechanical, electrical, plumbing, fire alarm system, security & access systems, ADA Compliance, NYS Building Code Compliance, Part 180 Juvenile Detention Facilities Regulations Compliance, kitchen facilities, classroom facilities, recreational facilities, furniture & resident equipment. This Facility Condition Assessment shall serve as a guide for the Successful Proposer, in conjunction with CDYCI, to develop a complete Design/Construction documents needed to implement all the selected alternatives for the Project (see paragraphs 4.3 and 4.4, below).

4.3 Phase 2: Development of Facility Modifications and/or Expansion Alternatives, including Concept Designs: upon completion of the Facility Conditions Assessment, the Selected Proposer shall be asked to provide concept designs of the alternatives that will accommodate the projected population demands at the Facility. This may include, but not be limited to, the following:

- review existing background and record information, including plans and reports, historical data, and related information;
- perform physical need, compliance, and process audits and evaluations of facilities;
- identify regulatory requirements, prepare alternatives analysis and concept designs, develop implementation strategies, and develop schedules for preferred alternative implementation; and,
- perform visualization, space/master planning in conformance with the Office of Children and Family Services (OCFS) Secure Center Capital Construction Project Checklist, and programming and additional studies needed to secure OCFS approval to move forward with the capital project;
- Phase 2 concepts must, in general, also comply with the draft Part 180-3 regulations;
- various components required under the Secure Center Capital Construction Check List for project approval.

4.4 Phase 3: Development of Complete Design/Construction Documents for the selected renovations: the Successful Proposer shall be asked to provide design services and development of construction bid documents for the Project. This shall include, but not be limited to, the following:

- anticipated services during the Phase 3 Design Phase include, but are not be limited to:
- architectural and landscape architecture investigation and design;
- civil/site, mechanical, electrical, plumbing, structural and special systems (fire alarm, security, and telephone/data) investigation and design;
- evaluate and recommend equipment, construction methods and materials;
- develop and/or revise specifications and details using word processing and Computer Aided Drafting (CAD) software compatible with current industry standards;
- provide facility, exhibit and system evaluations and analysis;

- provide feedback pertaining to any NYS Building Code issues or compliance with Part 180 Juvenile Detention Facilities Regulations;
- review and assist in developing, revising, editing, and/or distributing contract documents for improvements; and
- provide bidding assistance including bid tabulations and recommendations, clarifications, and construction cost estimating for improvements.
- prepare request for proposal documents to solicit further consultant services on specific projects.
- Upon completion of the Phase 2 alternatives analysis and concept designs, and selection of the preferred alternative by the County, the Successful Proposer and the County shall agree on the scope of the Project needed to implement the selected alternative. All subsequent surveys, field work, design and construction documents shall be developed and undertaken to minimize conflicts and facilitate resident and secure detention staff usage, and not interfere with day-to-day operations, to the greatest extent possible.
- Prior to beginning services required to prepare the Design and Construction Documents needed to accomplish the selected alternative, a written proposal for a not to exceed cost for each phase of the Project shall be provided to the County for review and approval by the County. The not to exceed cost shall include all reimbursable items. No services shall commence until written approval has been given by the County.

4.5 Project assignments under this Project will vary, and, in addition to the services described in paragraphs 4.1 through 4.4 above, may include planning, design and/or construction phase services at the Capital District Juvenile Secure Detention Facility related to the following:

- space utilization studies which include programming and master planning in conformance with the NYS Office of Children and Family Services (OCFS) requirements for Specialized Secure Detention Facility capital projects as referenced in the draft Part 180-3 regulations and in the OCFS Secure Center Capital Construction Project Checklist;
- general architectural upgrades;
- design of improvements needed to meet NYS Building Code and Americans with Disabilities Act (ADA) requirements; and Part 180 Juvenile Detention Facilities Regulations and Part 180-3 regulations for Specialized Secure Detention Facilities once finalized and approved by the State;
- civil/site investigation and design of improvements, including utilities, fencing, grading, and drainage;
- mechanical, electrical and plumbing system investigation and design of improvements;
- structural investigation and design of improvements;

- design and preparation of specifications; and
- cost estimating of both new construction and/or renovation projects.

4.6 Proposers must demonstrate their qualifications to perform architectural and engineering services for a secure detention or related facility which is occupied. The Selected Proposer shall be required to perform services during planning, alternatives analysis, design and construction phases.

4.7 Deliverables may include, but not be limited to, the following: evaluations, reports, permits, schedules, drawings/details, specifications, contract documents, addenda, bid tabulations, cost estimates/worksheets, and recommendations.

SECTION 5: TERM OF AGREEMENT

5.1 The Successful Proposer shall execute a contract with the County in substantial conformance with this RFP, as prepared and approved by the Albany County Attorney's Office. The term of the agreement shall be from the date of award until project completion.

SECTION 6: COST PROPOSAL:

6.1 Submit cost proposals for the Phase 1 Facility Conditions Assessment, and the Phase 2 Development of Facility Modifications and/or Expansion Alternatives, including Concept Designs. These two (2) cost proposals should be lump sum fee amounts. **All reimbursable expenses must be included in the total cost submitted.**

6.2 Regarding the Phase 3 services, upon completion of the Phase 1 Facility Conditions Assessment, and the Phase 2 Development of Facility Modifications and/or Expansion Alternatives, including Concept Designs, the Successful Proposal shall be asked to provide fees for the development of Complete Design and Construction Documents based on the hourly rates submitted with the cost proposals for the Phase 1 and Phase 2 services.

6.3 Provide any other relevant information that will assist the County in evaluating your Proposal.

SECTION 7: PROPOSAL SUBMISSIONS

7.1 In order for the County to conduct a uniform review process of all proposals, proposals shall be submitted in the format set forth below. Failure to follow this format may be cause for rejection of a proposal because adherence to this format is critical for the County's evaluation process:

SECTION I:

Title Page - The title page should reflect the Request for Proposal subject, name of the proposer, address, telephone number and contact person.

Table of Contents - The Table of Contents must indicate the material included in the proposal by section and page number.

SECTION II:

Qualification / Experience - The Qualification / Experience section must address proposer's qualifications and experience to carry out the requested service, inclusive of, but not limited to: qualification to do business in NYS, number of years in business and length of experience.

Resumes - Resumes of professional staff members who will be involved in the County engagement must be included in this section.

SECTION III:

References - The References section must include references from similar type projects.

SECTION IV:

Plan Implementation - The Plan Implementation Section must address the Scope of Services in terms of the proposer's plan to carry out the requested service.

SECTION V:

Cost Proposal Section - The Cost Proposal Section must include all costs associated with the proposer's plan to carry out the requested service. Any cost proposal forms furnished by the County must be included in this section.

SECTION VI:

Mandatory Documentation - The Mandatory Documentation Section must include: The Non- Collusive Bidding Certificate (Attachment "A"), Acknowledgment by Proposer (Attachment "B"), and Vendor Responsibility Questionnaire (Attachment "C"); Iranian Energy Divestment Certification (Attachment "D").

SECTION 8: PROPOSAL EVALUATION

8.1 Proposals will remain valid until the execution of an agreement with the County, unless otherwise rejected consistent with this RFP.

8.2 Proposals received will be evaluated by a committee with representation from the County and CDYCI. Proposals shall be evaluated based upon the following:

<i>CRITERIA</i>	<i>WEIGHT</i>
Proposer's comprehension of the required (work) Scope of Services	25%
Prior experience in secure detention facility renovation construction projects	25%
Professional Qualifications	10%
Total proposed price which must include <u>all</u> expenses	30%
Client References	10%

8.3 Proposals will be examined and evaluated by the County and CDYCI to determine whether the requirements of this RFP are met and to make a recommendation for a contract award.

8.4 A notice of contract award shall not be binding upon the County until the agreement has been fully executed by both parties

SECTION 9: Section Not In Use

SECTION 10: ALTERNATIVES

10.1 Proposer may include in its Proposal items not specified in this RFP, which it would consider pertinent. All such alternatives must be listed separately from the Proposal and the cost thereof must be separate and itemized.

SECTION 11: INDEMNIFICATION

11.1 The successful Proposer shall defend, indemnify and save harmless the County, its employees and agents, from and against all claims, damages, losses and expenses (including without limitations, reasonable attorneys' fees) arising out of, or in consequence of, any negligent or intentional act or omission of the successful Proposer, its employees or agents, to the extent of its or their responsibility for such claims, damages, losses and expenses.

SECTION 12: SPECIFICATION CLARIFICATION

12.1 All inquiries with respect to this Request for Proposals must be directed to the Albany County Purchasing Division, as follows:

Karen A. Storm
Albany County Purchasing Agent
112 State Street, **Room 820**
Albany, NY 12207
Telephone: (518) 447-7140
Facsimile: (518) 447-5588
Email: Karen.storm@albanycountyny.gov

12.2 All questions about the meaning or intent of the specifications must be submitted to the aforementioned designated person in writing. Replies will be issued by Addenda mailed or delivered to all parties recorded as having received the proposal documents. Questions received less than four (4) days prior to the date of submission of Proposals will not be answered. The County will be bound only by responses given by formal written Addenda.

12.3 Other than the contact person identified in the Proposal, or their designee, prospective Proposers shall not approach County employees during the period of this RFP process about any matters related to this RFP or any proposals submitted pursuant thereto.

SECTION 13: MODIFICATION AND WITHDRAWAL OF PROPOSALS

13.1 Proposals may be modified or withdrawn at any time prior to the opening of Proposals by an appropriate document duly executed (in the manner that a Proposal must be executed) and delivered to the place where Proposals are to be submitted.

13.2 If within twenty-four (24) hours after the Proposals are opened, any Proposer files a duly signed written notice with the Albany County Purchasing Division and promptly thereafter demonstrates to the reasonable satisfaction of the Purchasing Division that there was a material and substantial mistake in the preparation of its Proposal, that Proposer may withdraw its Proposal and the Proposal Security will be returned. Thereafter, that Proposer will be disqualified from making a further or additional proposal on the work contemplated by this RFP.

13.3 Each proposal shall state that it is an irrevocable offer for a period of ninety (90) days from the Proposal opening date. After expiration of the irrevocable offer period, if no contract award has been made, a Proposal may be withdrawn if the Proposer does so in writing directed to the County Purchasing Agent; otherwise, Proposals remain in effect consistent with the terms of this RFP.

SECTION 14: PROPOSAL SECURITY

14.1 No proposal security is requested for this RFP.

SECTION 15: INSURANCE AND SECURITY REQUIREMENTS

15.1 The successful Proposer will be required to procure and maintain at its own expense, the following insurance coverage:

- (a) **Worker's Compensation and Employer's Liability Insurance:** A policy or policies providing protection for Employees in the event of job related injuries.
- (b) **Automobile Liability Insurance:** A policy or policies of insurance with the limits of not less than \$500,000 combined for each accident because of bodily injury sickness or disease, sustained by any person, caused by accident, and arising out of the ownership, maintenance or use of any automobile for damage because of injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of any automobile.
- (c) **General Liability Insurance:** A policy or policies or comprehensive all-risk insurance with limits of not less than:

Liability For:	Combined Single Limit
Property Damage	\$1,000,000
Bodily Injury	\$1,000,000
Personal Injury	\$1,000,000

- (d) **Professional Liability:** A policy or policies with limits not less than \$2,000,000.00.

15.2 Each policy of insurance required shall be of form and content satisfactory to the County.

- (a) The County of Albany shall be named as an additional insured on all liability policies. **Proposal number must appear on insurance certificate.**
- (b) The policy shall not be changed or canceled until the expiration of thirty (30) days after written notice to the County. It shall be automatically renewed upon expiration and continued in force unless the County is given at least thirty (30) days written notice to the contrary.

15.3 No services shall be commenced under the agreement until the successful Proposer has delivered to the County or its designee proof of issuance of all policies of insurance required by the agreement to be procured by the successful Proposer. If at any time, any of said policies shall expire or become unsatisfactory to the County, the successful Proposer shall promptly obtain a new policy and submit proof of insurance of the same to the County for approval. Upon failure of the successful Proposer to furnish, deliver

and maintain such insurance as above provided, the agreement may, at the election of the County, be forthwith declared suspended, discontinued or terminated. Failure of the successful Proposer to procure and maintain any required insurance shall not relieve the successful Proposer from any liability under the agreement, nor shall the insurance requirements be construed to conflict with the obligations of the successful Proposer concerning indemnification.

SECTION 16: REMEDY FOR BREACH

16.1 In the event of a breach by the Successful Proposer/Consultant, the Successful Proposer/Consultant shall pay to the County all direct and consequential damages caused by such breach, including, but not limited to, all sums expended by the County to procure a substitute consultant to satisfactorily complete the services, together with the County's own costs incurred in procuring a substitute consultant.

SECTION 17: NOT USED

SECTION 18: FREEDOM OF INFORMATION LAW

18.1 Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission. Proposers intending to seek an exemption from disclosure of these materials under the Freedom of Information Law (New York State Public Officers Law, Sections 84-90) must request the exemption in writing, at the time of the submission of the materials, setting forth the reason for the claimed exemption. In addition, the proposer must mark each page of its submission on which there appears any material claimed to be protected as confidential or proprietary with the following legend, in bold face, capital letters at the top of each page: "THE PROPOSER BELIEVES THAT THIS INFORMATION IS PROTECTED FROM DISCLOSURE UNDER THE NEW YORK STATE FREEDOM OF INFORMATION LAW". Acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures.

SECTION 19: MACBRIDE PRINCIPLES

19.1 Successful Proposer/Consultant hereby represents that said contractor/proposer is in compliance with the MacBride Principles of Fair Employment as set forth in Albany County Local Law No. [3] for 1993, in that said proposer/consultant either (a) has no business operations in Northern Ireland or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles. In the event of a violation of this stipulation, the County reserves all rights to take remedial measures as authorized under section 4 of Local Law No. [3] in 1993, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the Successful Proposer/Consultant in default and/or seeking debarment or suspension of the Successful Proposer/Consultant.

19.2 In the case of a contract which must be let by competitive sealed bidding, whenever the lowest bidder has not agreed to stipulate to the conditions set forth in this section, and another bidder who has agreed to stipulate to such conditions has submitted a bid within five percent of the lowest bid for a contract to supply goods, services or construction of comparable quality, the contracting entity shall refer the contract to the County Legislature, which shall determine whether the lowest bidder is responsible. In making such determination, the County Legislature may consider, as a factor bearing on responsibility, whether the lowest bidder discriminates in employment in Northern Ireland.

19.3 As used in this section, the term “contract” shall not include contracts with government and non-profit organizations, contracts awarded pursuant to an emergency procurement procedure or contracts, resolutions, indentures, declarations of trust or other instruments of authorizing or relating to the authorization, issuance, award, sale or purchase or bonds, certificates of indebtedness, notes or other fiscal obligations of the County, provided that the policies of this section shall be considered when selecting managing underwriters in connection with such activities.

19.4 The provisions of this section shall not apply to contracts for which the County receive funds administered by the United States Department of Transportation, except to the extent Congress has directed that the Department of Transportation not withhold funds from states and localities that choose to implement selective purchasing policies based on agreement to comply with the MacBride Principles, or to the extent that such funds are not otherwise withheld by the Department of Transportation.

SECTION 20: Section Not In Use

SECTION 21: AFFIRMATIVE ACTION REQUIREMENTS

21.1 It is the policy of the County of Albany that Minority Business Enterprises (MBE) and Woman Business Enterprises (WBE) are afforded the maximum opportunity to participate in the performance of contracts, in excess of \$100,000, let by the County and its several agencies and authorities. The County commits itself to a goal oriented Contract Compliance Program which assures that Minority Business Enterprises and Woman Business Enterprises are considered in awarding contracts for goods, services and construction. Furthermore, it is the policy of the County of Albany that contractors/proposers and subcontractors utilize minority and women labor to the greatest extent feasible.

21.2 In proposing on this RFP, the Proposer acknowledges an understanding of this policy. The Successful Proposer/Consultant shall carry out the policy by making every reasonable effort to award contracts and subcontracts to MBEs and WBEs and utilizing minority and women labor in the performance of the agreement.

21.3 In an effort to assist Successful Proposers/Consultants with compliance attached you will find the following: Article SC19-Affirmative Action Plan and Department of Affirmative Action Compliance Forms.

SECTION 22: Section Not In Use

SECTION 23: INTERPRETATION

23.1 In the event of any discrepancy, disagreement or ambiguity among the documents which comprise this RFP, and/or, the agreement (between the County and the Successful Proposer) and its incorporated documents, the documents shall be given preference in the following order to interpret and to resolve such discrepancy, disagreement or ambiguity: 1) the Agreement; 2) the RFP; 3) the Proposal.

SECTION 24: NON APPROPRIATIONS CLAUSE

24.1 Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by or are otherwise unavailable to the County for payment under the Agreement. The County will immediately notify the Successful Proposer/Consultant of such occurrence and the Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to the County of any kind whatsoever, except as to those portions herein agreed upon for which funds shall have been appropriated and budgeted.

SECTION 25: IRANIAN ENERGY SECTOR DIVESTMENT

25.1 Proposer hereby represents that said Proposer is in compliance with New York State General Municipal Law Section 103-g entitled “Iranian Energy Sector Divestment”, in that said Proposer has not: (a) Provided goods or services of \$20 Million or more in the energy sector of Iran including but not limited to the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or (b) Acted as a financial institution and extended \$20 Million or more in credit to another person for forty-five days or more, if that person’s intent was to use the credit to provide goods or services in the energy sector in Iran.

25.2 Any Proposer who has undertaken any of the above and is identified on a list created pursuant to Section 165-a (3)(b) of the New York State Finance Law as a person engaging in investment activities in Iran, shall not be deemed a responsible bidder pursuant to Section 103 of the New York State General Municipal Law.

25.3 Except as otherwise specifically provided herein, every Proposer submitting a proposal in response to this Request for Proposals must certify and affirm the following under penalties of perjury: (a) “By submission of this proposal, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint proposal, each party

thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief, that each proposer is not on the list created pursuant to NYS Finance Law Section 165-a 3(b). CDYCI will accept this statement electronically in accordance with the provisions of Section 103 of the General Municipal Law.

- 25.4 Except as otherwise specifically provided herein, any proposal that is submitted without having complied with subdivision (a) above, shall not be considered for award. In any case where the Proposer cannot make the certification as set forth in subdivision (a) above, the Proposer shall so state and shall furnish with the proposal a signed statement setting forth in detail the reasons therefor. CDYCI reserves its rights, in accordance with N.Y. General Municipal Law Section 103-g to award the contract to any Proposer who cannot make the certification, on a case-by-case basis, under the following circumstances: (1) The investment activities in Iran were made before April 12, 2012, the investment activities in Iran have not been expanded or renewed after April 12, 2012, and the Proposer has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or (2) the County has made a determination that the goods or services are necessary for the County to perform its functions and that, absent such an exemption, the County would be unable to obtain the goods or services for which the Proposal is offered. Such determination shall be made by the County in writing and shall be a public document.

SECTION 26: Section Not In Use

SECTION 27: STORMWATER MANAGEMENT PROGRAM

- 27.1 Successful Proposer understands that the County must comply with Albany County's SPDES General Permit for Stormwater Discharges Municipal Separate Storm Sewer Systems (GP-0-15-003), and must comply with the terms and conditions of the aforementioned Permit. Successful Proposer further understands that under the New York State Environmental Conservation Law, it is unlawful for any person to directly or indirectly cause or contribute to a violation of water quality standards, and that Albany County adopted Local Law 7 of 2007 enabling the County to take action against any discharges that cause or contribute to a violation of water quality standards. Proposer agrees to comply with the terms and conditions of the SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-0-15-003) as well as Albany County Local Law No. 7 for 2007 and any Best Management Practices developed pursuant to the foregoing, as established in Albany County's Stormwater Management Program Plan. Proposer also agrees to implement any corrective actions identified by Albany County or a representative pursuant to the above regulations, and further understands that any non-compliance by the County will not diminish, eliminate, or lessen Proposer own liability. Successful Proposer **shall execute and deliver to the County a certification statement acknowledging the above provisions prior to commencing any services (see Sheet MS4-1/Attachment "E")**.

SECTION 28: GREEN INFRASTRUCTURE POLICY

- 28.1 The Prospective Bidder(s) acknowledge(s) awareness of Albany County's Green Infrastructure Policy, which is part of the County's larger MS4 Stormwater Management Program pursuant to SPDES GP-0-15-003. The Prospective Bidder(s) agree(s) to examine the feasibility of design options involving protection of natural resources, reduction of stormwater runoff, and use of green infrastructure practices to the maximum extent practicable in accordance with said Policy.