



**Empire State
Development**

REQUEST FOR PROPOSALS



**FOR THE PURCHASE AND REDEVELOPMENT OF
MONTEREY SHOCK INCARCERATION CORRECTIONAL FACILITY**

2150 Evergreen Hill Road, Beaver Dams, NY

MontereyShockCF@esd.ny.gov

RFP RELEASE DATE:

Thursday, March 19, 2015

SITE TOUR DATE:

Tuesday, April 28, 2015

DEADLINE TO SUBMIT QUESTIONS:

Thursday, April 30, 2015

DEADLINE TO SUBMIT PROPOSALS:

Monday, May 18, 2015

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I. INTRODUCTION

New York State Urban Development Corporation, d/b/a Empire State Development (“ESD”), is seeking proposals for the purchase and redevelopment (the “Project”) of an approximately 25 acre site located at 2150 Evergreen Hill Road, Beaver Dams, NY (the “Site”). Each party that submits a response (“Proposal”) to this Request for Proposals (“RFP”) is referred to herein as a “Respondent,” and the Respondent that is conditionally designated through this RFP process is referred to herein as the “Designated Developer.”

The Site was formerly used as the Monterey Shock Incarceration Correctional Facility. The Site was vacated in July 2014 as part of New York Governor Andrew M. Cuomo’s initiative for the Department of Correctional Services and Community Supervision (“DOCCS”) to decommission a number of facilities in order to reduce costs and consolidate inmates in response to a shrinking prison population.

ESD has posted an adaptive re-use study, closure plan, and video of the Site on ESD’s RFP website (<http://esd.ny.gov/CorporateInformation/RFPs.html>). The materials provide a comprehensive analysis of the Site, including descriptions and layouts of the Site’s 40 structures (approximately 87,000 total gross square feet of floor area) and related infrastructure.

Selection Criteria are described in greater detail in Section V herein, and include the creation of new jobs (both permanent and related to the construction of the proposed Project), and projects which stimulate economic activity in the local municipality and region.

In order to further promote economic redevelopment in the area, the State Budget enacted the Economic Transformation Program (2014) (“ETP”), authorizing ESD to make up to \$8 million in ETP funds available for projects within 10 miles of the Site. Therefore, if applicable, Respondents may request up to \$8 million of this funding. ETP funds may be used for:

- New construction, renovation or leasehold improvements;
- Construction or renovation of basic infrastructure systems;
- Acquisition of land, buildings, machinery and equipment;
- Soft costs of up to 25% of total project costs; and
- Planning and feasibility studies related to a specific capital project

Details regarding eligibility and other requirements of ETP can be found at http://www.esd.ny.gov/BusinessPrograms/2014Economic_Transformation.html

II. RFP TIMELINE

RFP release date:	March 19, 2015
Site tour:	April 28, 2015
Deadline to submit questions:	April 30, 2015, 11:59 PM EDT
Deadline to submit Proposals:	May 18, 2015 2:00 PM EDT

III. SITE DESCRIPTION

Site Summary

The Site consists of approximately 25 acres located within 10,000 acres of the Sugar Hill State Forest. The Site opened in 1958 as a facility for the rehabilitation of juvenile offenders through forest conservation work. In 1987, the Site transitioned into a minimum security correctional facility, accommodating up to 300 inmates. Due to its status as a minimum security facility, the Site does not have any security fencing or perimeter walls.

The Site features 40 structures, with construction dating from 1958 through the 2000s, totaling approximately 87,000 square feet. Structures straddle both sides of Evergreen Hill Road as indicated in Figure 1. Figure 2 illustrates the layout of the Site and the building locations. A description and inventory of the Site's structures are provided in Figure 3.

Significant buildings include:

- The administration building and annex, totaling 17,021 square feet, featuring offices and the facility's visiting room.
- A 7,151-square-foot kitchen and mess hall, which also contains the facility's main boilers and mechanical room and walk-in freezers.
- Two open-style dormitories (8,226 and 8,498 square feet respectively) connected to the mess hall— each with shower facilities and communal area.
- A 3,735-square-foot recreational building that houses the facility's gymnasium.

The administration building, kitchen & mess, dormitories, and recreation building all wrap around an exterior courtyard that is used as an outdoor recreation area with a basketball court. Directly south of the courtyard is a baseball field.

Additional structures include:

- Two barrack-style housing units. Each housing unit is 7,804 square feet and consists of open sleeping dormitories, shared bathroom and shower facilities, and communal rooms.
- An educational building with 2 large classrooms, restrooms and offices.
- A 10-bay garage with oversized overhead doors;
- A 3,093-square-foot maintenance & shop building;
- A 2,780-square-foot central storage building; and
- A small medical building and quality of work-life building.

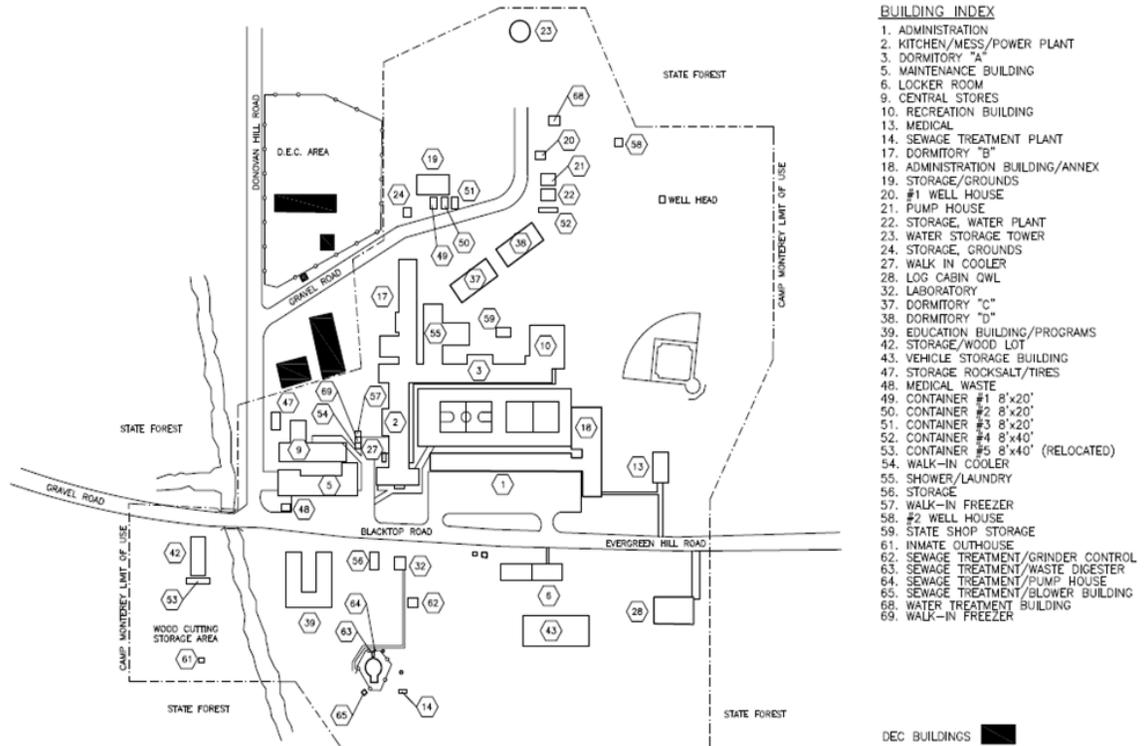
The structures are all connected by asphalt-paved or gravel walkways. The land is sloped in areas with mowed lawn and mature trees.

Figure 1- Aerial View of Site



Figure 2-Facility Plot Plan

NOTE- Buildings 49-53 (Containers #1-5) have been removed from the Site and are not included in the RFP



- BUILDING INDEX**
1. ADMINISTRATION
 2. KITCHEN/MESS/POWER PLANT
 3. DORMITORY "A"
 5. MAINTENANCE BUILDING
 6. LOCKER ROOM
 9. CENTRAL STORES
 10. RECREATION BUILDING
 13. MEDICAL
 14. SEWAGE TREATMENT PLANT
 17. DORMITORY "B"
 18. ADMINISTRATION BUILDING/ANNEX
 19. STORAGE/GROUNDS
 20. #1 WELL HOUSE
 21. PUMP HOUSE
 22. STORAGE, WATER PLANT
 23. WATER STORAGE TOWER
 24. STORAGE, GROUNDS
 27. WALK-IN COOLER
 28. LOG CABIN QWL
 32. LABORATORY
 37. DORMITORY "C"
 38. DORMITORY "D"
 39. EDUCATION BUILDING/PROGRAMS
 42. STORAGE/WOOD LOT
 43. VEHICLE STORAGE BUILDING
 47. STORAGE ROCKSALT/TIRES
 48. MEDICAL WASTE
 49. CONTAINER #1 8'x20'
 50. CONTAINER #2 8'x20'
 51. CONTAINER #3 8'x20'
 52. CONTAINER #4 8'x40'
 53. CONTAINER #5 8'x40' (RELOCATED)
 54. WALK-IN COOLER
 55. SHOWER/LAUNDRY
 56. STORAGE
 57. WALK-IN FREEZER
 58. #2 WELL HOUSE
 59. STATE SHOP STORAGE
 61. INMATE OUTHOUSE
 62. SEWAGE TREATMENT/GRINDER CONTROL
 63. SEWAGE TREATMENT/WASTE DIGESTER
 64. SEWAGE TREATMENT/PUMP HOUSE
 65. SEWAGE TREATMENT/BLOWER BUILDING
 68. WATER TREATMENT BUILDING
 69. WALK-IN FREEZER

DATE OF MAP YOUR RESPECTIVE DEPARTMENT
OFFICE OF GENERAL SERVICES
DESIGN AND CONSTRUCTION



DEPARTMENT OF CORRECTIONAL SERVICES
MONTEREY SHOCK INCARCERATION FACILITY
BRAVER DAMS, NEW YORK (Schuyler County)

KEY PLOT PLAN	
REVISION DATE	P-6
9/14/11	

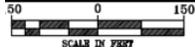


Figure 3 – Property Structure List

Structure	Total Gross sq.ft	Number of Floors
Administration	8,026	2
Kitchen/Mess Hall Power Plant	7,171	2
Dorm A Housing	7,988	1
Maintenance	3,080	1
Locker Room	2,446	1
Central Stores	2,760	1 with basement
Recreation	3,216	1 with basement
Medical Unit	760	1
Sewage Treatment Plant	1,573	1
Dorm B Housing	7,084	2 with basement
Administration Annex	6,550	1
Storage/Grounds	970	1
Well House #1	73	1
Pump House	216	1
Storage Water Plant	192	1
Water Storage Tower	0	1
Storage Grounds	90	1
Walk in Cooler	180	1
Log Cabin QWL	1,618	1
Laboratory	360	1
Dorm C Housing	7,720	1
Dorm D Housing	7,720	1
Education Building	2,912	1
Woodlot Storage	2,240	1
Vehicle Storage Building	5,292	1
Rock Salt, Tire Storage	336	1
Medical Waste	36	1
Walk-in Cooler	462	1
Shower Laundry	2,443	1
Storage	450	1
Walk-in Freezer	160	1
Well House #2	63	1
State Shop Storage	448	1
Inmate Outhouse	25	1
Sewage Treatment Grinder	160	1
Sewage Treatment Waste Digester	368	1
Sewage Treatment Pump House	18	1
Sewage Treatment Blower	242	1
Water Treatment Building	325	1

Walk-in Freezer	145	1
Total	85,918	43

Surrounding Area and Access

The Site lies in the Town of Orange, Schuyler County, which is located within the Southern Tier Region of New York State. The Site is nine miles from the Village of Watkins Glen, on the southern tip of Seneca Lake.

Nearby cities in the state’s Southern Tier include Corning (20 miles away), Elmira (30 miles away) and Binghamton (83 miles away). To the north, the City of Rochester is 85 miles away and the City of Syracuse is 100 miles, each accessible along the New York State Thruway (I-90). Interstates 390 and 86 connect to numerous state highways in the region and provide access to railways and to area airports, including the Elmira/Corning Regional Airport (20 miles), the Ithaca Tompkins Regional Airport (30 miles), the Greater Binghamton Regional Airport (65 miles), and the Greater Rochester International Airport (85 miles).

The Southern Tier Region is known for its world-class educational institutions such as Cornell University and Ithaca College in Ithaca (35 miles away), and Binghamton University (65 miles away). The adjacent Finger Lakes Region is home to Hobart and William Smith Colleges in Geneva (35 miles away). Several community colleges are also located in the region.

The Southern Tier region is sustained by a thriving agricultural, wine producing and tourism industry. The renowned Watkins Glen International Raceway, located four miles from downtown Watkins Glen, attracts approximately 170,000 visitors and tourists annually.

The Site is managed by the New York State Department of Environmental Conservation (NYSDEC). Land uses around the State Forest are primarily residential, agricultural and light industrial. The nearest commercial retail uses is in the town center of Watkins Glen which is nine (9) miles away. Situated just south of the Finger Lakes, the Site lies within Sugar Hill State Forest and is located within close proximity to more than six additional state or national forests, supporting a multitude of recreational visitors and uses.

The Site is accessed from Evergreen Hill Road. The closest major roads are County Road 16 which is one (1) mile away from the Site and County Road 22 which is two (2) miles away from the Site. The site has a parking for roughly 94 cars using existing spaces. Additional parking spaces could be created on the perimeter of the Site which is currently used for open space and recreation.

Zoning and Approvals

The Town of Orange does not have a zoning ordinance, but site plan review is required for development in the municipality. In addition, as the Site is located within a State Forest, any proposed development may be subject to NYSDEC review and approval by the regional forester.

Ownership and Taxes

The Site is currently owned by the State and is exempt from property taxes. After a purchase, property taxes would be assessed and collected by Schuyler County and the Town of Orange. Mineral rights will not convey to the Designated Developer.

Site Infrastructure

Heating is provided to the facility by a primary boiler system located in the Site mess hall that burns #2 fuel oil supplied by a central 225,000-gallon aboveground storage tank. In addition, the facility uses an alternative wood boiler. Water is supplied via three on-site wells, with on-site filtration, and water tower. Waste water is treated through an onsite sewage treatment facility. Electrical service is provided by New York State Electric and Gas, and the property has an emergency backup diesel-powered generator. The Site also includes two fuel tanks with pumps.

Economic Development Incentives

The State has made available Economic Transformation Program (“ETP”) grants to fund projects on the Site and projects within 10 miles of the Site. Preference will be given to projects that create or retain jobs, prevent, reduce or eliminate unemployment or underemployment, or increase business activity. For more information and program guidelines visit: http://esd.ny.gov/BusinessPrograms/2014Economic_Transformation.html

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

Respondents may also wish to learn about the Site’s potential eligibility as a START-UP NY program site, which would require partnership with a sponsoring academic institution (or institutions). Information on START-UP NY is available at www.startup-ny.com.

Respondents are encouraged to email MontereyShockCF@esd.ny.gov for further inquiries related to Project eligibility for any and all such programs.

Additional Site Information

A substantial amount of additional information on the Site can be found on ESD’s RFP website at (<http://esd.ny.gov/CorporateInformation/RFPs.html>). Respondents may wish to review the Southern Tier Regional Economic Development Council 2014 Progress Report for additional area context on local needs and priorities at: <http://regionalcouncils.ny.gov/content/southern-tier>

IV. PROPOSAL REQUIREMENTS

The following are the submission requirements for all Proposals. ESD reserves the right, in its sole discretion, to reject any Proposal that is deemed incomplete or unresponsive to the RFP

requirements. ESD also reserves the right, in its sole discretion, to reject any and all Proposals for any reason or for no reason, and to proceed (or not proceed) with the development of the Site (either by itself or in conjunction with one or more third-party(ies)) without completing this RFP process.

In evaluating the capabilities of each Respondent, ESD may utilize any and all information available (including information not provided by the Respondent). Proposals should clearly and concisely state the unique capabilities, experience, and advantages of the Respondent, and demonstrate the Respondent's capability to satisfy the requirements and objectives set forth in this RFP.

Proposals should be no longer than 100 pages of text.

A. Transaction Structure and Certain Costs

Every Proposal must provide an offer price for the acquisition of the entire Site (inclusive of land and improvements), subject to a declaration regarding conformance to the General Project Plan ("GPP") of development at the Site, as applicable. It is intended that the Site will be conveyed to the Designated Developer at closing, and that the Designated Developer will hold title during development of the Site.

The purchase price must be expressed in a fixed, non-contingent dollar amount. The Designated Developer will be required to enter into a Development Agreement that provides the terms of any phasing of the Project and agreements to develop the Site in compliance with the proposed development plan.

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

As noted below in this RFP's Section VIII Disposition Process, in order to implement the Project and transfer the Site, ESD, with the cooperation of the Designated Developer, must comply with legal and regulatory requirements such as: (i) the State Environmental Quality Review Act and its implementing regulations ("SEQRA"); (ii) the State Historic Preservation Act; (iii) the State's Coastal Zone Management Policies; (iv) Public Authorities Law; (v) State Finance Law; (vi) Federal tax law applicable to facilities financed with tax exempt bonds; and (vi) the New York State Urban Development Corporation Act (the "UDC Act"). Such compliance must be completed before disposition of the Site to the Designated Developer for the Project. Please also note that Section VIII of this RFP requires that the Designated Developer enter into

agreements with ESD and the State that will require the Designated Developer to pay, commencing from the date of its conditional designation:

1. A 10% security deposit against the purchase price;
2. ESD's out-of-pocket costs and expenses incurred in connection with the Project and the disposition to the Designated Developer of the Site, including, without limitation, costs and expenses of ESD's consultants and legal counsel which will not be credited against the purchase price.

At closing, the Designated Developer will be required to pay the balance of the purchase price to ESD in addition to an ESD administrative fee of an amount equal to 6.5% of the purchase price.

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

B. Required Elements of the Proposal

1. Respondent Description

Each Respondent submitting a Proposal must demonstrate sufficient financial resources and professional ability to develop the Site in a manner consistent with its Proposal. In addition, all Respondents must complete and submit the NYS Vendor Responsibility Questionnaire, which is described in Section X Procurement Forms and Requirements and included in this RFP.

Each Proposal must include a description of the Respondent owner or the development team, including:

- The intended form and structure of the owner and any proposed partnership or joint venture must be clearly explained. A chart/diagram of the owner showing structure (percentages) of ownership and investment must be included.
- Name, address, phone number and email and of each member of the owner. Respondents must provide the Federal EIN numbers of the development entity and identify a primary contact person.
- Current operating budget and previous three (3) years of audited financials for all entities with an ownership percentage in the Proposal.
- A copy of the most recent credit report for key members of the owner.
- Documentation addressing whether the Respondent, or any participating member of the team, has been involved in any litigation or legal dispute regarding a real estate venture during the past five years.

- Evidence of ability to finance the Project including letters of interest and/or intent from equity sources and lenders.
- Evidence of Designated Developer's commitment to pay, from the date of its conditional designation, ESD's out-of-pocket costs and expenses incurred in connection with the Project and the disposition to the Designated Developer of the Site, including, without limitation, costs and expenses of consultants and legal counsel.
- Evidence of Designated Developer's commitment to pay the full purchase price for the Site (including 10% security deposit at designation and balance at closing, if a purchase transaction) as well as an ESD administrative fee in amount equal to 6.5% of the Site purchase price (at closing).
- Any additional documentation or information evidencing the strength of the Respondent and its ability to complete the Project in a timely manner.
- Disclosure of any existing or contemplated relationship with any other person or entity, including relationships with any parent, subsidiary or affiliated firm, which would constitute an actual or potential conflict of interest in connection with Respondents' Proposal or selection as the Designated Developer and completing the project. Respondents must also indicate how they will notify ESD if a conflict arises at any point after the submission of this Response, and how such a conflict would be resolved.

2. Project Description

The Project description should include a detailed narrative describing all relevant aspects of the Project and any plans/timing of phasing of the development. The description should address:

- The proposed use(s).
- Type, bulk and size of each component of the development program (gross and net square footages).
- Description of the proposed uses, a list of potential tenants and any letters of interest and/or intent from potential tenants.
- The description should address how this project will advance the Development Goals set forth in Section V below.

3. Purchase Price

A purchase price offer must be expressed in a fixed, non-contingent dollar amount to be paid at closing. Under a purchase scenario, transfer of title will be by quit-claim deed (without any representations or warranties) at the closing.

The Designated Developer will be required to enter into a Development Agreement that provides the terms of any phasing of the Project and agreements to develop the Site in compliance with the proposed development plan.

4. Site Plan and Architectural Design

Each entity submitting a Proposal must provide the following:

- A summary of the proposed building program for the Project with square footages for each use.
- At a minimum, a set of concept sketches on 8.5" x 11" paper, showing the proposed Project and a set of schematic renderings of the proposed Project showing the principal elevations and massing, floor plans for each use, streetscape and landscape plans, entry feature and signage.
- A description of the proposed exterior materials and other relevant specifications.
- A description of sustainable building practices that will be incorporated into the project during construction/renovation and operation of the improvements.
- A description of specific noteworthy features that will be preserved, as well as any significant proposed building modifications or enhancements.

6. Development Timeframe

Respondent must submit a development timeline (subdivided into phases, if necessary), identifying the estimated length of time to reach key milestones, including: commencement and completion of design; financing; commencement and completion of construction; potential tenants; and operational stabilization for each component of the development program. Any contingencies that may affect this time line should be identified.

7. Mechanicals, Equipment, Infrastructure

Respondent shall provide an overview of how the principal spaces, systems and building elements would be modified or re-used or demolished. Proposal should outline all necessary development, including modifications from current "as-is" condition, and include an estimated schedule, budget and funding sources.

8. Flood Zones

Proposals should identify any flood zone and note how Respondent will meet Federal Emergency Management Agency guidelines as necessary.

9. Team Member Qualifications

Proposals should include a list of and background information for all key members of the development team, including:

- Identification and qualifications of each member of the development team, including all persons or entities that will design, develop, or operate the Project, as well as the attorney, engineer, general contractor and other professionals, as appropriate, including leasing and management, who will be involved with this Project.
 - A description of similar projects undertaken by the members of the Respondent's team.
 - A summary of the availability of each of the principal members of each firm and their availability for commitment to the Project.
 - Documentation addressing whether any participating team members have been involved in litigation or legal dispute regarding a real estate venture during the

past five years.

- Background information of the owner, including resumes describing the relevant experience of all principal members. This information must be submitted for every participant in a joint venture and should highlight similar projects (including a project description and approximate dollar value for each).

10. Project Information Supplement (“RFP Workbook”)

Prior to the submission deadline, Respondents are required to email a completed RFP Workbook to the designated email account for this solicitation: MontereyShockCF@esd.ny.gov. Instructions for completing the RFP Workbook are included in the Excel file that has been posted with this RFP. In addition to emailing a copy of the RFP Workbook, Respondents should submit hard copies of all RFP Workbook pages in their Proposals.

Among other items, completing the RFP Workbook requires Respondents to enter and submit information on the following subjects:

- a) Key General Assumptions:* Public Benefits; Project Timeline; Economic Benefits; M/WBE Participation; Sustainability; NYS Vendor Participation; and Project Contingencies.
- b) Key Financial Assumptions:* Development and Leasing Summary; Estimated Development Cost and Rents by Use; Financing Summary; and Stabilization Information.
- c) Development Budget:* Acquisition; Site Work; Construction; Soft Costs; Construction Finance; Permanent Finance; Reserves; Marketing and Other.
- d) Development Timeline:* Projected Expenditures and Square Footage of Development by Phase.
- e) Sources of Funds:* Debt Attraction Calculation; Proposed Permanent Financing.
- f) Pro Forma:* Cash flows for the development and Project operation periods, including details of any as-of-right or discretionary real estate tax, other tax, energy or other governmental benefits assumed in the model. The cash flows should include a section outlining all assumptions on which all calculations were based, including minimum returns sought. This data should include all necessary capital investments over time and reserves and debt service payments associated with the financings. Respondents are required to complete all Pro Forma worksheets in the format provided by the RFP Workbook. If Respondents wish, however, they may also complete a supplementary, fully optional Pro Forma as identified on the tab “Pro Forma (Hardcode)” in order to highlight any discrepancies between the existing format constraints and a more precisely modeled Project.

In completing the RFP Workbook Proposals should address the following with respect to financial information:

- Pro forma cash flows in live-linked Excel format for the development and Project

operation periods, including details of any as-of-right or discretionary real estate tax exemptions, other tax exemptions and energy or other governmental benefits assumed in the model. The cash flows should include a section outlining all assumptions on which all calculations were based, including minimum returns sought. This data should extend out to at least thirty (30) years of operations and include all necessary capital investments over time and reserves and debt service payments associated with the financings.

- Construction/renovation sources, budget, and uses of funds, including details of equity and financing sources and a break out of all soft and hard costs and development and financing fees. Indicate escalation rates to account for any increases in construction/renovation costs in the budget or contingences.
- Permanent sources and uses of funds, including details of equity and financing sources and all development fees and financing fees to be paid.

V. SELECTION CRITERIA

ESD invites Respondents to submit Proposals that maximize the economic benefit to the Town of Orange and the State through reuse and redevelopment of the Site in ways that maximize the creation of new jobs and the stimulation of the local economy.

In evaluating received Proposals, ESD will use the following Selection Criteria to select the Designated Developer:

- *Employment Impact:* Creation of construction and permanent on-site jobs and payroll. Indirect job creation through on-site job training programs may also be considered.
- *Economic Impact:* Projected expenditures, construction costs, annual operating costs and other direct spending that will help spur economic activity. ESD will also consider the impact of indirect spending that the Project will generate and any applicable tax revenue.
- *Financial Offer:* Provision of competitive terms for the purchase of the Site.
- *Financial Feasibility:* Respondent's demonstrated financial condition to complete the Project; availability of identifiable funding sources to finance the Project; sufficient revenue to support operating revenues, scheduled payments related to capital costs, reserve fund contributors and debt service.
- *Environmental Impact:* The incorporation of sustainable building practices, the degree of LEED or Energy Star Certification, and overall impact of the project on the environment, including any on-site renewable energy generation.
- *Development Team Qualifications:* Experience, development skills, and financial resources necessary to complete a high-quality Project on time and within budget.
- *Schedule and Timing:* Proven ability to complete the Project in a timely manner.

Prior to selecting the Designated Developer, ESD reserves the right to remove Respondents from competitive consideration at one or more points throughout the solicitation based on these criteria and/or a failure to achieve minimum satisfaction of the Selection Criteria. In order to remain in competitive consideration, Respondents are encouraged to present their most competitive Proposal terms at each stage of the solicitation.

ESD also reserves the right to conduct interviews with or pose questions in writing to individual Respondents in order to clarify the content of their proposals and to ensure a full and complete understanding of each proposal. ESD shall undertake to pursue uniformity in the questions it asks to Respondents to the extent practicable, but ESD may ask different or additional questions to different Respondents in the context of any individual interview or in writing. ESD shall convene a committee of staff who shall be permissible contacts for the purpose of such interviews, and Respondents who are invited will receive additional instructions upon their invitation.

Proposals may be reviewed by ESD and other State officials. The sale of the Site may be subject to various approvals, as required under applicable law and regulation, which may include approval of the ESD Directors, the Commissioner of General Services, the Public Authorities Control Board, the Comptroller of the State of New York, and the New York State Attorney General.

VI. DEVELOPER DUE DILIGENCE

“As Is, Where Is” Condition

Respondents should assume that the Site, including land, improvements, and any supporting building infrastructure, will be sold or long-term leased “AS IS” and “WHERE IS” without representation, warranty, or guaranty as to quantity, quality, title, character, condition, size, or kind, or that the same is in condition or fit to be used for the Respondent’s purpose (*e.g.*, conveyed by quitclaim).

ESD will post information regarding the RFP on the RFP website (<http://www.esd.ny.gov/CorporateInformation/RFPs.html>); Respondents are encouraged to check back for updates. ESD makes no representation or warranty concerning the accuracy or utility of information posted or otherwise provided to the potential Respondents or to the Respondents. **Prospective Respondents should notify ESD of their interest as soon as possible in order to ensure that they receive all updates associated with this solicitation by sending an email to MontereyShockCF@esd.ny.gov.**

Respondents must rely on their own research and investigations for all matters, including, costs, title, survey, development, financing, construction, remediation, and renovation.

VII. SUBMISSIONS

Ten (10) hard copies and one (1) electronic copy (in the form of a flash drive or CD-ROM) of the Proposal identified by “Monterey Shock Incarceration C.F. RFP” must be received by ESD by 2:00 PM on Monday, May 18, 2015 at the following address:

Empire State Development
633 Third Avenue
New York, NY 10017
Attn: Edgar Camacho, ESD Procurement Unit
Re: Monterey Shock Incarceration C.F. RFP

RFP Inquiries

ESD will accept written questions via email from prospective Respondents regarding the RFP. Please submit questions to:

MontereyShockCF@esd.ny.gov

Written questions must include the requestor's name, e-mail address and the Respondent represented and should be received by 11:59 PM EDT on Thursday, April 30, 2015. Responses to all timely and appropriate questions will be posted on ESD's website at:

<http://www.esd.ny.gov/CorporateInformation/RFPs.html>.

No contact related to this solicitation with ESD Board members, staff or consultants, other than emails to the designated email account for the solicitation, attention Alexis Offen the designated contact person, MontereyShockCF@esd.ny.gov, will be allowed by Respondents or employed representatives of Respondent team members during the procurement period of this RFP. Any such contact by a Respondent or potential Respondent will be grounds for disqualification.

Site Tours

Potential Respondents may also attend a Site tour that is anticipated to be scheduled for 1:00 pm on April 28, 2015. Please email MontereyShockCF@esd.ny.gov at least two business days in advance if you plan on participating in the Site tour. ESD may choose to offer one or more additional tour(s) at its discretion.

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

VIII. DISPOSITION PROCESS

The following is a summary description of the disposition process. After a review of the Proposals, ESD intends to conditionally designate one of the Respondents as the Designated Developer. The Designated Developer will enter into a Memorandum of Understanding ("MOU") with ESD regarding the disposition of the Site and the Project and separate agreements with ESD regarding payment by the Designated Developer of expenses as described at the end of this section. In implementing the Project, including the disposition process, ESD intends to:

1. conduct a SEQRA compliant environmental review of the Project;
2. prepare, in accordance with the UDC Act and in consultation with the Designated Developer, if necessary, a proposed GPP for the Project reflective of the Designated Developer's Proposal, which will be expected to comply with all building, fire, and other applicable codes and regulations, as enforced by the State of New York;
3. present to ESD Directors for adoption for purposes of a public hearing any requisite Draft Environmental Impact Statement ("DEIS"), any draft GPP, essential transaction contract terms, any SEQRA determination, any required Public Authorities Law findings, any municipal law and regulation overrides, and any other applicable statutory or regulatory requirements;
4. give prior notice of and conduct a public hearing in order to receive comments on any proposed GPP and essential contract terms (including any requisite DEIS);
5. review such comments, and either affirm or modify any proposed GPP as a final GPP and authorize proposed transaction;
6. present the Project to the Public Authorities Control Board (PACB) for its approval, if required;
7. prepare, in consultation with the Designated Developer, and record, a declaration for the Site in the *State Register* (the "Declaration") regarding conformance to any GPP of the Project's development at the Site, including, as may be applicable, overrides of municipal laws and regulations, permitted uses, bulk and height limits, and similar matters; and
8. deliver to the Designated Developer, *at closing*, a quitclaim deed for the Site that is subject to the Declaration.

This process may take up to twelve months from the commencement of the environmental review, however depending upon the complexity of the Project the duration of that process may vary.

Upon designation by ESD, as noted above, the Designated Developer is expected to pay to ESD a security deposit in the amount equal to 10% of the purchase price.

The Designated Developer shall also pay all of ESD's out-of-pocket costs and expenses (including, without limitation, costs and expenses of consultants, legal counsel, and appraisers) related to the disposition of the Site and the Project. At the time of and as a pre-requisite to its designation, such Respondent and ESD shall enter into an agreement pursuant to which, among other things: (i) the Respondent shall deposit into an ESD imprest account funds (in an amount that shall be satisfactory to ESD) that shall be held by ESD and used by ESD for payment of such

out-of-pocket costs and expenses; (ii) each time that the balance in the imprest account falls below 50% of the original amount required to be deposited into the account, the Respondent shall promptly make an additional payment into the ESD imprest account so that balance in the account shall be returned to such original amount; and (iii) the amount remaining in the imprest account after all such costs and expenses are paid will be returned to the Respondent.

In addition to the full purchase price for the Site less the security deposit, at closing, the Designated Developer shall pay to ESD an administrative fee in an amount equal to 6.5% of such purchase price, which shall be separate and apart from the purchase price.

IX. STATEMENT OF LIMITATIONS

1. This RFP, submissions from Respondents to this RFP, and any relationship between ESD and Respondents arising from or connected or related to this RFP, are subject to the specific limitations and representations expressed below, as well as the terms contained elsewhere in this RFP. By responding to this RFP, Respondents are deemed to accept and agree to this Statement of Limitations. By submitting a response to this RFP, the Respondent acknowledges and accepts ESD's rights as set forth in the RFP, including this Statement of Limitations.
2. The issuance of this RFP and the submission of a response by any firm or the acceptance of such response by ESD does not obligate ESD in any manner whatsoever. Legal obligations will only arise upon execution of a formal contract by ESD and the firm(s) selected by ESD.

ESD reserves the right: (i) to amend, modify, or withdraw this RFP; (ii) to revise any requirements of this RFP; (iii) to require supplemental statements or information from any responding party; (iv) to accept or reject any or all responses thereto; (v) to extend the deadline for submission of responses thereto; (vi) to negotiate or hold discussions with any respondent and to correct deficient responses which do not completely conform to the instructions contained herein; and (vii) to cancel, in whole or part, this RFP, for any reason or for no reason. ESD may exercise the foregoing rights at any time without notice and without liability to any Respondent or any other party for its expenses incurred in the preparation of responses hereto or otherwise. Responses hereto will be prepared at the sole cost and expense of each Respondent.

3. All information submitted in response to this RFP is subject to the Freedom of Information Law (FOIL), which generally mandates the disclosure of documents in the possession of ESD upon the request of any person, unless the content of the document falls under a specific exemption to disclosure. If any Respondent wishes to claim that any information submitted in its response to this RFP constitutes a Trade Secret or is otherwise exempt from disclosure under FOIL, such claim must be made at the time of the response, and must be in writing supported by relevant and material arguments.

4. ESD reserves the right, in its sole discretion, without liability, to utilize any or all of the RFP responses, including late responses, in its planning efforts. ESD reserves the right to retain and use all the materials and information, and any ideas or suggestions therein, submitted in response to this RFP (collectively, the “Response Information”), for any purpose. By submitting a Response, each Respondent waives any and all claims against ESD relating to ESD’s retention or use of the Response Information.
5. This RFP shall not be construed in any manner to implement any of the actions contemplated herein, nor to serve as the basis for any claim whatsoever for reimbursement of costs for efforts expended in preparing a response to the RFP. ESD will not be responsible for any costs incurred by Respondents related to preparing and submitting a response to this RFP, attending oral presentations, or for any other associated costs.
6. To the best of ESD's knowledge, the information provided herein is accurate. Respondents should undertake appropriate investigation in preparation of responses.

X. PROCUREMENT FORMS AND REQUIREMENTS

Additional requirements for this RFP are described below. Relevant forms, where required to be submitted, must be executed and included in the submission in the same order as listed below:

1. State Finance Law §§139-j and 139-k forms
2. New York State Vendor Responsibility Questionnaire For-Profit Business Entity
3. Iran Divestment Act Statement
4. Non-Discrimination and Contractor & Supplier Diversity Requirements
5. Encouraging the Use of NYS Businesses in Contract Performance Form
6. Certification Under State Tax Law Section 5-a
7. Schedule A (for review only—no separate form requirement)
8. Project Sunlight (for review only—no separate form requirement)

A Checklist is provided in Section XII. Respondents must complete the Checklist and include in their Response.

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

State Finance Law Sections 139-j and 139-k (collectively, the “Procurement Requirements”) apply to this RFP. These Procurement Requirements: (1) govern permissible communications between potential respondents and ESD or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP. Compliance with the Procurement Requirements requires that all communications regarding this RFP, from

the time of its issuance through final award and execution of any resulting contract (the "Restricted Period"), be conducted only with the designated contact persons listed below; the completion by Respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer's Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESD web site under "RFPs/RFQs"); and periodic updating of such forms during the term of any contract resulting from this RFP.

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

http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139JK.pdf.

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

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

<http://esd.ny.gov/CorporateInformation/RFPs.html>

(under "ESDC Policy Regarding Permissible Contacts under SFL 139").

All potential Respondents are solely responsible for full compliance with the Procurement Requirements. The prime consultant and any sub-consultants must complete the forms required above.

2. Vendor Responsibility

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

non-responsible. On request, model language to this effect will be provided to any Respondent to this RFP.

To assist in the determination of responsibility, ESD requires that all respondents to this RFP register in the State's Vendor Responsibility System ("VendRep System"). The VendRep System allows business entities to enter and maintain their Vendor Responsibility Questionnaire information in a secure, centralized database. New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Respondents are to file the required Vendor Responsibility Questionnaire online via the VendRep System or may choose to complete and submit a paper questionnaire. Please include a copy of your VendRep submission receipt with your proposal. If you submit a paper questionnaire please submit it using certified mail and provide a copy of the return receipt.

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

Respondents opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website http://www.osc.state.ny.us/vendrep/forms_vendor.htm and execute accordingly pertaining to the company's trade industry. Per the website, respondents are to "Select the questionnaire which best matches the business type (either For-Profit or Not-For-Profit) and business activity (Construction or Other)." For ESD RFPs concerning the purchase and redevelopment of real estate, it is most common for a Respondent to complete the form as a "Non-Construction" company. Unless the Respondent is primarily a Construction firm, the Respondent should thus fill out the Vendor Responsibility Questionnaire as a "Non-Construction" entity, either as a For-Profit or Not-For-Profit entity, depending on the Respondent organization type.

3. Iran Divestment Act

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

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

The list in question is maintained by the Office of General Services. No Response that fails to certify compliance with this requirement may be accepted as responsive.

4. Non-Discrimination and Contractor & Supplier Diversity Requirements

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises (MWBES) and the employment of minority group members and women in the performance of ESD contracts.

It is the policy of the State of New York and ESD to comply with all federal, State and local laws, policy, orders, rules and regulations which prohibit unlawful discrimination based on race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action in working with contracting parties to ensure that New York State Business Enterprises, MWBEs, minority group members and women share in the economic opportunities generated by ESD's participation in projects or initiatives, and/or the use of ESD funds. ESD's Non-Discrimination requirements will apply to this initiative.

The Designated Developer shall commit to ESD's policy of Non-Discrimination and Equal Employment Opportunity and is strongly encouraged to include meaningful and material participation in the project by New York State certified MWBEs. Respondents are also encouraged to include, in their response, details regarding their MWBE participation plan and objectives. Favorable consideration shall be given to proposals that include plans to achieve participation by MWBEs in the proposed project. **Respondents must submit the Non-Discrimination and Equal Employment Opportunity form.** Copies of these forms are available at: http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_1MWBEEEOPolicyStatement.pdf

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

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this ESD contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. In order for ESD to assess the use of New York State businesses in each Proposal, ESD requests that each Respondent complete the Encouraging Use of New York State Businesses in Contract Performance form, available at:

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

6. Certification Under State Tax Law Section 5-a

Any contract resulting from this solicitation is also subject to the requirements of State Tax Law Section 5-a ("STL 5-a"). STL 5-a prohibits ESD from approving any such contract with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services having a value over

\$300,000 and is not registered for sales and compensating use tax purposes. To comply with STL 5-a, all Respondents to this solicitation must include in their Proposals a properly completed Form ST-220-CA, or an affidavit that the Respondent is not required to be registered with the State Department of Taxation and Finance. A copy of the ST-220-CA form and affidavit is accessible at the Required Forms for Vendors link at the ESD web site: labeled "Schedule A- Conditions Applicable to the Corporation's Agreements for Materials and Services (includes ST220 and all other required forms) at <http://esd.ny.gov/CorporateInformation/RFPs.html>

Also in accordance with the requirements of STL 5-a, any contract resulting from this solicitation will require periodic updating of the certifications contained in Form ST-220-CA. Solicitation responses that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered for contract award. Only the prime consultant completes Form ST 220-CA, but Schedule A to Form ST 220-CA requires detailed information from the sub-consultants, such as tax ID number, etc., if applicable. Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the sub-consultants.

7. Schedule A

Following final selection of a Designated Developer, ESD will prepare a contract defining all project terms and conditions and the Designated Developer's responsibilities in conformance with "Schedule A," which can be found at:

http://esd.ny.gov/CorporateInformation/Data/ScheduleA_ConditionsApplicabletoCorporationAgreementsForMaterialServices_RevisedAug2014.pdf

Please note Respondents do not need to complete the entire Schedule A with the submission of their Proposal. However, Respondents should still review these terms, which are standard in all ESD contracts, and raise any concerns present prior to submission of their Proposal, as the Designated Developer will need to accept these terms prior to contract execution.

8. Project Sunlight

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

XI. INSURANCE REQUIREMENTS

The Designated Developer will be expected to show evidence of the following insurance requirements (at a minimum and to the extent applicable), as listed below:

- A. Commercial General Liability insurance - \$1 million per occurrence / \$2 million aggregate.
- B. Auto Liability insurance - \$1 million per occurrence
- C. Excess Umbrella Liability insurance - \$10 million per occurrence / \$10 million aggregate minimum
- D. Professional Liability insurance - \$1 to \$3 million minimum (preferably \$5 million)
- E. Worker's Compensation & Employer's Liability insurance at State statutory limits.
- F. Disability insurance coverage at State statutory limits.

The NYS Urban Development Corporation d/b/a Empire State Development and the People of the State of New York, as their interests may appear, must be named as an "additional insured" on a primary and non-contributory basis on all of the following policies: Commercial General Liability, Auto Liability, and Excess Umbrella Liability policies.

All policies above should include a waiver of subrogation in favor of the NYS UDC d/b/a ESD and the People of the State of New York.

XII. RFP Checklist

I _____, a principal of the firm _____ certify that the following information has been submitted as part of the response to this Request for Proposals.

- Submitted all required information with respect to the Proposal, including but not limited to a project narrative, concept sketches, and Project Information Supplement “RFP Workbook” that clearly outlines all assumptions (Section IV)
- Submitted an electronic copy of the proposal (Section VII)
- Completed and submitted State Finance Law Sections 139-j and 139-k forms (Section X)
- Completed and submitted ST-220-CA Form or affidavit (Section X)
- Copy of VendRep receipt (Section X)
- Completed an Equal Employment Opportunity Policy Statement (Section X)
- Completed and submitted Iran Divestment Act Statement (Section X)
- Completed and submitted Use of NYS Business Form (Section X)

Note: Incomplete responses may not be considered by Empire State Development

Signed: _____

Name:

Date: