



**Empire State  
Development**

**REQUEST FOR PROPOSALS TO DEVELOP THE  
LONG ISLAND CENTER FOR CELL AND GENE  
THERAPY**

One Marcus Avenue, Lake Success, New York



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# **REQUEST FOR PROPOSALS TO DEVELOP THE LONG ISLAND CENTER FOR CELL AND GENE THERAPY**

**One Marcus Avenue, Lake Success, New York**

**Issued: December 14, 2023**

**IMPORTANT NOTICE:** A restricted period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until approval of the Contract. Respondents are prohibited from contact related to this procurement with any New York State employee other than the designated contacts listed below.

Designated Contacts for this Procurement:

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This RFP is posted on the Empire State Development website:  
<https://esd.ny.gov/doing-business-ny/requests-proposals>

**Submission Deadline: March 12, 2024 by 5:00 PM ET**  
**Please send your proposals to the following Dropbox link:**  
<https://www.dropbox.com/request/jr7cw8Hcg3qJ4KspZXTc>

# **Contents**

I.	INTRODUCTION .....	4
II.	SCHEDULE OF DATES.....	8
III.	SITE DESCRIPTION AND CONTEXT.....	9
	Project Site .....	9
	Information on the Site and Existing Building .....	9
	Neighborhood Information.....	10
	Transportation Access.....	11
	Utilities and Existing Systems .....	12
	Environmental Conditions, Environmental Review .....	12
	Ownership, Lease, and Taxes.....	13
IV.	DEVELOPMENT OBJECTIVES AND REQUIREMENTS .....	13
	A. Development Objectives .....	13
	B. Scientific and Market Opportunity .....	16
	C. Program and Facility Requirements .....	17
	D. Transaction Structure, Grant Agreement, ESD Approvals .....	19
	E. Cost Agreement and Imprest Account.....	22
	F. MWBE and SDVOB Subcontractor Interest.....	22
V.	REQUIRED PROPOSAL COMPONENTS .....	23
	A. Project Vision and Description .....	23
	B. Site Plan and Architectural Design.....	24
	C. Design Approach.....	24
	D. Zoning Analysis .....	25
	E. Development Timeframe .....	25
	F. Economic Impact and Local Hiring Plan .....	25
	G. Respondent Qualifications .....	26
	H. Financial Proposal.....	28
VI.	SELECTION CRITERIA .....	30
VII.	DEVELOPER DUE DILIGENCE .....	32
VIII.	DESIGNATION PROCESS .....	33
IX.	PROPOSAL SUBMISSION INSTRUCTIONS .....	33
	A. Proposal Submission .....	34
	B. Questions .....	34

C.	Site Visit.....	35
X.	GENERAL PROVISIONS .....	35
XI.	PROCUREMENT REQUIREMENTS.....	36
i.	Conflicts of Interest.....	36
ii.	State Finance Law Sections 139-j and 139-k forms .....	37
iii.	Vendor Responsibility Questionnaire .....	38
iv.	Iran Divestment Act .....	39
v.	Executive Order 16.....	39
vi.	Executive Order 177.....	40
viii.	Encouraging the Use of NYS Businesses in Contract Performance Form.....	45
ix.	Certification under State Tax Law Section 5-a.....	45
x.	Schedule A.....	45
xi.	Project Sunlight.....	46
xii.	Insurance Requirements.....	46
xiii.	W-9 Form .....	46

## **I. INTRODUCTION**

### **About ESD**

The New York State Urban Development Corporation d/b/a Empire State Development (“ESD” or the “Corporation”), a corporate governmental agency of the State of New York, constituting a political subdivision and public benefit corporation, pursuant to this request for proposals (“RFP”) seeks proposals from qualified parties for the development of a cell and gene therapy (“CGT”) hub (the “Long Island CGT Center” or the “Project”) that will be home to organizations providing services required to support the research, development, and manufacture of new CGTs at a site in Nassau County, Long Island.

The mission of ESD is to promote a vigorous and growing state economy, encourage business investment and job creation, and support diverse, prosperous local economies across New York State through the efficient use of loans, grants, tax credits, real estate development, marketing, and other forms of assistance. In 2017, ESD launched the Life Science Initiative to leverage New York State’s academic medicine assets and catalyze the commercial life science sector in the State. The launch of the Long Island CGT Center is a major opportunity to further this mission by leveraging State of New York and ESD resources with the unique competitive advantages and strengths of the Long Island region.

### **Envisioning a “Hub of the Future” for Cell and Gene Therapy**

New York recently launched an exciting and far-reaching life science strategic plan that placed CGTs as the most significant and highest priority opportunity for the State. CGTs hold the potential to radically alter oncology and rare disease treatment paradigms, and New York State is uniquely positioned to capitalize on this opportunity. With a high concentration of the nation’s top medical institutions – that hold more than 815 CGT-related patents, more than 168 active CGT clinical trials, and \$256 million in NIH funding awards for CGT research between 2018 and 2022 – New York State competes with regional CGT research clusters in and around Boston, San Francisco, Philadelphia and Seattle. In her 2023 State of the State address, Governor Kathy Hochul prioritized New York State Life Science funding for CGTs, announcing plans to establish two cell and gene therapy centers, one in upstate New York and a second downstate. ESD envisions these two centers as the bedrock of a larger statewide strategy to establish New York State as the leading center for CGT research, development, and patient care in the nation.

New York has already taken an important first step toward meeting this commitment, with a \$30 million grant towards the \$97.9 million expansion of the cGMP Engineering & Cell Manufacturing Facility at Roswell Park Comprehensive Cancer Center (“Roswell”) in Buffalo. Upon completion, this site will be the largest academic CGT research and manufacturing facility in the United States.

Research at Roswell, led by Dr. Renier Brentjens, one of the world's pre-eminent CGT developers, will focus on development of CGTs for solid tumors, 90% of all cancers, offering enormous potential to deliver life changing benefits to patients and economic opportunities for innovators and developers alike. This center will be utilized by academic researchers and private sector companies across the Western NY region, including those affiliated with Roswell and the University of Rochester. Moreover, the Roswell Center will be inextricably linked with the new Long Island CGT Center, as well as the other CGT centers and health care providers across the State.

The Long Island CGT Center, the focus of this RFP, is critical to New York's CGT ecosystem. It will serve as the catalyst to connect the complementary resources and capabilities of the numerous academic and clinical centers in New York City and on Long Island, thereby feeding the development of CGT therapies, and creating a collaborative CGT "Hub of the Future." Working in tandem with the Roswell facility, the Long Island CGT Center will provide direct access to CGTs for the region's large patient population – the most diverse in the nation – and will also attract companies that deliver the services and enabling technologies required for CGT development, as well as the talent needed to continue developing such technologies.

This "Hub of the Future" will house CGT developers, as well as leading providers of services and technologies required by CGT developers, including contract development and manufacturing organizations ("CDMOs"), vector developers, advanced diagnostics providers, and other related service providers, which will catalyze CGT research, development, manufacturing, and commercialization across the state, creating opportunities for talent development, startup creation, job growth, and cluster formation. Further enhancing this ecosystem is the opportunity for future expansion of the Long Island CGT Center, as well as the opportunity for ancillary development within the 15-acre site, such as additional manufacturing space, a hotel, a conference center, or other complementary research and commercial uses. By locating the Long Island CGT Center where it has significant future expansion capacity, it is possible to foster additional CGT innovation and help drive supplemental revenue streams.

New York State has provided leadership and made significant investments to advance CGT research and commercialization that extend beyond physical infrastructure. Formation of a statewide Clinical Trial Consortium ("the Consortium") is already under way, with the goal of facilitating and expediting clinical evaluation of the therapies resulting from the CGT development ongoing at Roswell and other major CGT centers. The Consortium will facilitate clinical trial collaboration and enable access to patients through its network of prestigious institutions, such as Columbia University Irving Medical Center, the University of Rochester, Cornell University, and Northwell Health, New York's largest healthcare system and largest private employer. These institutions recognize the value of the Long Island CGT Center and have been involved in its planning discussions.

To further New York State’s vision, the Long Island CGT Center will also include an ESD-sponsored, state-of-the-art incubator and accelerator (“CGT Business Incubator”) with a mission to increase the number and speed with which CGTs are translated from discovery to the clinic. The CGT Business Incubator will foster CGT companies emerging out of the research conducted throughout New York State and beyond, as well as startups seeking support on their way to product commercialization.

With its proximity to New York City and the high population density and diversity of its boroughs – Queens, in particular, where 150 languages are spoken – Long Island offers a unique opportunity to offer participation in clinical trials to historically overlooked diverse populations. By co-locating and encouraging collaboration between clinical researchers, therapeutic developers, CDMOs, and advanced research, diagnostic, manufacturing, and related companies, the Long Island CGT Hub will ultimately be a continuous economic engine, developing and commercializing CGTs and enabling them to reach more patients, more quickly.

New York is rapidly gaining meaningful recognition as a center of innovation and leading science, as exemplified by its selection as the fourth research institute by the Chan Zuckerberg Biohub, a groundbreaking collaborative model for scientific research to solve great scientific challenges. Establishment of the Long Island CGT Center and the collaborative “Hub of the Future” that will result will foster a statewide CGT innovation engine unmatched in capability and economic potential, establishing New York as the leading destination in the nation for CGT innovation. It will demonstrate that New York can truly deliver CGTs from bench to bedside – supported by an unparalleled institutional and talent brain trust, the infrastructure needed to support and spin out new companies, the population diversity so critical for success of CGTs, and the unrivalled economic support by the State.

## **Project Introduction**

ESD and the State of New York seek a Developer, as defined below, that will successfully finance, design, construct, market and tenant, fit out, operate, and maintain the Long Island CGT Center. ESD invites all qualified parties to submit Proposals for the reuse and redevelopment of the Site in accordance with the goals and objectives of the Project and the requirements of this RFP.

- Each person or group that submits a Proposal is referred to herein as a “Respondent.”
- A Respondent that is made up of multiple firms or a joint venture is herein referred to as a “Development Team.”
- A Respondent who is conditionally designated through this RFP process is referred to herein as a “Designated Developer.”
- A Designated Developer who enters into a lease and development agreement with Northwell Health, Inc. (“Northwell”) for the Site (as defined below) is referred to herein as a “Developer”.

ESD intends to offer the Developer a mix of capital construction and working capital grant funding to make the Project a reality, tap into Long Island's tremendous potential, and manifest the State's vision for a Long Island CGT Center that is home to the most innovative commercialization activities and companies available. It is the needs of these very companies – those that have ties to academic and medical institutions in New York as well as groundbreaking companies operating outside of the State that are developing and/or testing cell and gene therapies that have great commercial potential but need a focused support facility and ecosystem – that are the ultimate intended beneficiaries of this Project.

The subject property that will accommodate the Project comprises a 15.32-acre parcel known as One Marcus Avenue in the Village of Lake Success, New York (the "Site"). The Site is improved with a three-story approximately 103,000 square-foot office building with approximately 500 parking spaces.

The Site is owned by Northwell, a nonprofit integrated healthcare network that is New York State's largest healthcare provider and private employer, with more than 85,000 employees. ESD and Northwell have entered into a memorandum of understanding under which ESD will make a conditional designation of a private developer (the "Designated Developer") for the development of the Long Island CGT Center through this RFP process. Northwell, as the fee-owner of the Site, will enter into a development agreement and long-term net ground lease with the Developer selected through this RFP process for the Site pursuant to which the Developer would design, finance, build, market and tenant, and operate the Project.

The Project is expected to comprise approximately 200,000 gross square feet ("gsf") of space, which may include adaptive reuse and/or expansion of the existing building, or demolition and construction of a new facility. Respondents may propose developments greater than 200,000 gsf, and may also propose additional, complimentary improvements to the Site beyond the requirements provided herein relative to the Long Island CGT Center. Respondents should propose a development plan that includes the construction of approximately 25,000 gsf of CGT Business Incubator space as an included component of the approximately 200,000 gsf Long Island CGT Center and should also leave additional space for future expansion of the Long Island CGT Center on the Site.

Proposals should also clearly define the role of the Developer/Operator of the LI CGT Center and component CGT Business Incubator, and include a ten-year plan for their operations. This plan should demonstrate the Developer/Operator's or partner organization's qualifications to operate both the LI CGT Center as well as the CGT Business Incubator, and denote significant experience in managing large-scale CGT research, development, and manufacturing facilities.



This plan should further include specifics on how the Developer/Operator or partner organization will provide CGT services, integrate the CGT Business Incubator within the Long Island CGT Center, attract top-talent subtenants, manage the Project’s facilities and access to equipment and space among subtenants, as well as how their operation of the envisioned facilities will grow CGT development, patents, and clinical trials, and expand the State’s CGT ecosystem.

ESD intends to offer to the Designated Developer a capital construction grant of up to \$100 million for the Long Island CGT Center, as well as an additional capital construction grant of up to \$25 million for the CGT Business Incubator space, which would be disbursed (likely not more frequently than quarterly) on a reimbursement basis for construction and fit out costs for the Project. Further additional grant support of at least \$25 million in working capital to operate the CGT Business Incubator will also be available to the Developer. Additional information regarding the proposed grants is provided below.

Respondents should propose uses that will advance the Development Objectives described in Section IV below. Proposals shall, at minimum, meet the required objectives and include submission of the required Proposal materials in order to be considered responsive, including the delivery and operation of an approximately 200,000 gsf facility focused on the development, clinical trials for, commercialization, manufacture, and related endeavors including an incubator targeted to CGT startups and companies, of cell and gene therapies, as more fully described in Section V, Required Proposal Components, below.

## **II. SCHEDULE OF DATES**

It is anticipated that a contract will be awarded in response to this RFP based on the following schedule:

Release of RFP	Thursday, December 14, 2023
Deadline to RSVP for Site Visit	Friday, December 29, 2023
Site Tour 1	Friday, January 5, 2024
Site Tour 2	Thursday, January 18, 2024
Deadline to Submit Questions	Friday, January 12, 2024
ESD to Respond to Questions	Friday, January 26, 2024
Submission of Proposals (date and time)	Tuesday, March 12, 2024, 5:00PM
Interviews (if necessary)	TBD
Announcement of Successful Bidder	TBD
Anticipated Contract Start Date	TBD

Please note, the Corporation reserves the right to change any of the dates stated in this RFP.

**III. SITE DESCRIPTION AND CONTEXT**

**Project Site**

The Site is located at One Marcus Avenue, Lake Success, NY 11042, and is part of a 19.95-acre lot within the Village of Lake Success, and borders North New Hyde Park and New York City (Queens), New York. Approximately 4.6 acres of the lot is leased to the adjacent golf course, with the remaining 15.32 acres of the lot comprising the Site. The Site is improved by an approximately 103,000 square foot Class B office building constructed in 1978. The building has three stories of approximately 34,000 square feet each, above an 80-space underground parking garage. The Site also has approximately 500 surface parking spaces in the surface lots, which are currently used by Northwell for spillover parking when needed. Northwell will deliver the Site clear of any uses and occupants including parking. The Site has two entrance gates providing access to Marcus Avenue and is bounded by the golf course associated with the North Shore Towers residential condominium complex to the west and south, and medical facilities affiliated with Northwell to the east. The Site is zoned R-O (Research and General Office).

**Figure 1: Aerial View of One Marcus Avenue, Lake Success, NY**



[BJH will investigate additional and/or higher quality Site images]

**Information on the Site and Existing Building**

Information on the existing building on the Site can be found below and as-builts are provided in Appendix A.

- Year Built: 1978
- Floor loads: Ground floor: 100 lbs/psf

Floors 1-3: 50 lbs/psf

- Ceiling Heights: 1st/2nd floors: 11' 4"  
3rd floor: 11' 8.5"
- Power: 2500 Amp electrical service
- Elevators: Two passenger, one freight
- Roof: Original
- Building 150 KW generator can be made available.

Additional site maps and floor plans can be found in **Appendix A: Site File**.

### Neighborhood Information

Nassau County, the host county of the Project Site, is renowned for the safety of its neighborhoods, the excellence of its school districts, and its proximity to recreation and public transportation, offering an extraordinary quality of life for its residents. Nassau is mere minutes from the North Shore along Long Island Sound, the beaches of the Atlantic Ocean, and the vibrant metropolis of New York City. Its bustling downtowns and picturesque villages offer attractions catered to all ages and demographics, including young professionals and families alike.

The county is also home to an educated workforce, with 48% of residents 25 years and older having obtained at least a bachelor's degree, and a total population of nearly 1.4 million. The county has a well established healthcare and social assistance economy, boasting \$15.6 billion in annual gross receipts per the latest census data. The county's diverse economy is further bolstered by a strong food service and accommodation industry as well as a thriving retail sector, with gross annual receipts of \$4.1 billion and \$26.8 billion, respectively.

Nassau and nearby areas in Queens are also home to several world class sporting and concert venues, including the UBS Arena, Belmont Racetrack, Jones Beach Theater, and Nassau Coliseum, as well as high-end shopping and other retail establishments, such as the Americana Manhasset shopping mall. In total, Nassau County claims 48,235 business establishments within its borders.

Beyond this, Nassau County and neighboring Suffolk County are home to over 20 institutions of higher education, including four medical schools and a veterinarian school. These institutions include Hofstra University, Stony Brook University, the Cold Spring Harbor Laboratory School of Biological Sciences, Long Island University, and some of the highest ranked community colleges in the nation. As noted above, the project Site is immediately adjacent to the Queens, New York City border and also benefits from its proximity and strong transportation connections to the vast academic, research, commercial, financial, cultural, and other resources of New York City.

Additionally, Northwell, the Site owner, is a major landowner and employer in the immediately adjacent New Hyde Park area. Northwell is a nonprofit integrated healthcare network that is New York State's largest healthcare provider and private employer, with over 85,000 employees. Twenty-one hospitals and medical facilities are part of Northwell, including five tertiary hospitals, five specialty care hospitals, and 11 community hospitals. These facilities are located across Nassau, Suffolk, and Westchester Counties, in addition to the New York City boroughs of Queens, Manhattan, and Staten Island and treats more than two million New Yorkers each year, including treating more New Yorkers for cancer than any other healthcare provider in the State. Five of Northwell's hospitals received top-50 national ratings in 31 adult medical specialties. Northwell's flagship hospitals are North Shore University Hospital and Long Island Jewish Medical Center, both located near the Site in Lake Success.

Northwell is also a leader in biomedical research, including pioneering bioelectronic medicine research at the Feinstein Institutes for Medical Research in Manhasset and national clinical trial sites for the treating lupus, rheumatoid arthritis, and paralysis. Northwell is also a partner at the Zucker School of Medicine at Hofstra University/Northwell in Hempstead, and lies in close proximity to Cold Spring Harbor Laboratory ("CSHL"), a private, not-for-profit organization with over 1,000 employees including 600 scientists, students, and technicians. CSHL specializations include cancer, neuroscience, plant biology, and quantitative biology research.

### **Transportation Access**

The Site is served by major public transportation including the New York City subway and Long Island Railroad ("LIRR") systems has access to major airports and highway networks. It is approximately 2.7 miles from the Great Neck Station and 3.3 miles from the Little Neck Station (Port Washington Branch of the LIRR), 2.9 miles from the New Hyde Park Station (Port Jefferson Branch), and 3.5 miles from the Floral Park Station (Hempstead Branch). The Site is also 6.4 miles from the F New York City subway line of the Metropolitan Transportation Authority. It is further served by the Nassau Inter-Country Express ("NICE") bus with the closest stop (Lake Success) approximately 400 feet from the Site. For airport access, the Site is 12 miles from LaGuardia Airport and 14.4 miles from John F. Kennedy International Airport. In addition, Northwell operates a shuttle to its New Hyde Park Campus from the Great Neck LIRR station, and Northwell has indicated that the Long Island CGT Center may be added to the shuttle route. The Site is also easily accessible to the Long Island highway network, with an exit/entrance to the Northern State Parkway one block away at the corner of Lakeville Road, and an exit/entrance to the Long Island Expressway approximately 1.6 miles away at New Hyde Park Road.

## Utilities and Existing Systems

The Site is served by the following utilizes:

- Electric service is provided by PSEG Long Island.
- Water service is provided by the Manhasset-Lakeville Water District.
- Sewer service is provided by the Nassau County Sewage Disposal District.

## Environmental Conditions, Environmental Review

The Designated Developer will be responsible for conducting all due diligence investigations and remediation, including, but not limited to, environmental site assessments, which include sampling and testing of the soil, sediments, and ground water (if any). No representation or warranty is made nor shall be given by ESD, Northwell, the State of New York, or any other entity as to any environmental condition at or under the Site, which is offered “AS IS” and “WHERE IS.” The term “environmental condition” as used herein includes but is not limited to any hazardous and/or toxic substance as defined in any State or Federal law, rule or regulation, solid waste, petroleum and/or petroleum by-products, endangered species of fauna or flora, archeological feature or artifact or any other matter or site condition which may affect the development of the Site.

As the Project will likely require local land use variances and other discretionary actions, and ESD intends to offer grant funding for the Project, the Project will be subject environmental review pursuant to New York State’s Environmental Quality Review Act (“SEQRA”). SEQRA requires all local, regional, and State government agencies to examine the environmental impacts, including the social and economic considerations, for a proposed project or action during its discretionary review. Agencies must follow the multi-step SEQRA Decision Process, which requires assessment of the environmental significance of all actions they have the power to approve, fund, or directly assume. If an action consists of multiple phases, sets of activities, or if separate agencies are involved, SEQRA requires agencies to jointly consider these cumulative impacts during their review.

The Village of Lake Success would be the SEQRA lead agency for the aforementioned environmental review for the Project, and ESD would be an involved agency in such review.

All information provided on the project Site and any required environmental reviews or other discretionary approvals processes contained herein is provided for informational purposes only and should not be relied upon by any Proposer for any purpose. Each Respondent is responsible for all Site diligence and, if designated to undertake the Project, to obtain all required approvals.

## Ownership, Lease, and Taxes

The Site is currently owned by Northwell and is currently exempt from real property taxes due to Northwell's nonprofit status. Formerly, the site was the headquarters of Astoria Savings Bank. The Designated Developer will be offered the opportunity to negotiate a ground lease for the Site with Northwell. The term of the ground lease may be between 40 to 50 years (or as otherwise may be agreed to), subject to lender requirements and agreement by Northwell. Ground rent shall be determined between Northwell and the Developer based on fair market value.

After development of the Project, the Site will be subject to real property taxes payable to Nassau County, the Town of North Hempstead, and the Village of Lake Success ("Village"). The Site is fully exempt as to Nassau County and the Town of North Hempstead. Northwell has entered into a payment in lieu of taxes ("PILOT") agreement with the Village under for which it makes a payment that is allocated to the Site in the amount of approximately \$335,000 for the 2023/2024 tax year, with an annual escalation of 2%. Respondents should assume that a PILOT in this amount will be due and payable to the Village as a minimum for the Project. Any additional development beyond the CGT core uses (e.g. other commercial uses like retail, a hotel and conference center, etc.) should be assumed to be subject to full taxation.

Property tax exemptions may be available for eligible Projects or Project components. For details of relevant tax exemption programs, Respondents should consult relevant statutes and rules. Proposals should indicate which tax exemption program(s), if any, Respondents plan to utilize. The Designated Developer may, for example, apply to the Nassau County Industrial Development Agency for exemption from such taxation and enter into a PILOT agreement. It is the Designated Developer's responsibility to apply for and meet the requirements of any specific tax benefit program(s).

## IV. DEVELOPMENT OBJECTIVES AND REQUIREMENTS

### A. Development Objectives

#### ***Project Objectives and Goals: Launch of CGT Hub***

CGTs are transformative therapies that can prolong patient lives and significantly improve quality of patient life, often displacing recurring standard of care treatments or symptomatic treatments that

require lifelong administration. In the last decade, CGTs have already changed the lives of more than 20,000 patients<sup>1</sup>.

CGTs have been identified as a substantial opportunity for New York State’s Life Science Initiative due to their tremendous promise in treating cancer and other diseases in combination with the extensive research and innovation already ongoing at the world class universities and hospitals in New York State.

New York State offers world class research infrastructure, clinical trial and patient support networks, a highly skilled workforce, as well as a large and diverse population; and the Long Island CGT Center will enhance the rapidly growing global CGT ecosystem and accelerate innovation and collaboration for the benefit of patients in New York and across the World.

In summary, Proposals should address the following development objectives (“Development Objectives”):

- Enhance the Site with a CGT center that will co-locate vital CGT infrastructure, technology, and services to support growth and innovation in New York State and ensure that New York is a leader in this field;
- Attract leading providers of services and technologies required by cell and gene therapy developers, including CDMOs, vector developers, tools and technology providers, advanced diagnostics providers, and other related service providers to New York State;
- Develop a CGT ecosystem that fosters innovation and collaboration to accelerate the rate novel therapies progress from discovery to patients;
- Maximize economic benefit to the State while minimizing the State’s economic and environmental risk;
- Provide a source of quality jobs for area and New York State residents;
- Feature meaningful participation of Minority and Women-Owned Business Enterprises (“MWBE”) and Socially and Economically Disadvantaged Individual-Owned Businesses (“SEDI”); and
- Maximize incorporation of green building and sustainable design practices.

### ***The Long Island CGT Center – Catalyzing a CGT Innovation Cluster***

In her 2023 State of the State Address, Governor Hochul announced plans to establish two CGT centers in New York State, one Upstate and one Downstate. With these two centers, New York State is creating a multifaceted innovation cluster to catalyze cell therapy research, development, clinical

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<sup>1</sup> Calculated by Dark Horse Consulting Group using publicly available information from pharmaceutical companies with commercially approved CGTs.

manufacturing, and commercialization and enable participating institutions and companies to leapfrog their competitors in other states.

Upstate, the Roswell Park Comprehensive Cancer Center in Buffalo will expand its CGT manufacturing and research capability to focus on developing therapeutics that target solid tumors, which constitute approximately 90% of all cancers<sup>2</sup>. On October 13, 2023, Governor Hochul announced that the State will contribute \$30 million to the \$98 million facility at Roswell.

Downstate, Long Island offers an unmatched combination of resources, including a highly trained and skilled workforce, a vast research and academic cluster, and the presence of several top research and clinical care institutions including CSHL, the Feinstein Institutes, Northwell, and Stony Brook University. Long Island also offers under-utilized real estate readily available to house the desired companies and technologies needed to support the Long Island CGT Center, as exemplified by the Site.

Northwell, for instance, has the largest clinical footprint in the state, providing care to two million patients annually, including 19,000 new cancer patients. Northwell is applying to become a National Cancer Institute (“NCI”)-designated cancer center and has partnered with CSHL, which is already an NCI-designated cancer research center. With NCI accreditation, advanced genomics capabilities, and a partnership with RPCCC, Northwell could deliver the most advanced cancer care in the region to the world’s most diverse patient population.

Additionally, the Site’s location is near to other world-renowned New York City metro-area academic medical systems such as New York-Presbyterian, New York University, Mt. Sinai, Columbia University, and Weill Cornell, among others, which presents additional opportunities for collaboration and cooperation that will greatly enhance the Site’s success and contribute to advancing the CGT ecosphere in New York and beyond.

Moreover, Long Island’s proximity to a dense and highly diverse population offers a unique opportunity to address a major issue in modern healthcare concerning the lack of diversity in clinical trial participation. The NCI has placed great emphasis on ending structural racism in biomedical research, including efforts to increase inclusivity and equitable access to clinical trials, and ESD envisions the Long Island CGT Center as being a national leader in delivering equal access to medical advances, in line with the NCI. By providing future clinical trial access to the area’s diverse population through the Long Island CGT Center, the Respondent may also qualify for additional, future grant funding through the NCI Equity and Inclusion Program.

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<sup>2</sup> National Cancer Institute “[Common Cancer Types](#)”.



Through this RFP process, ESD is taking an ambitious step forward to realize Governor Hochul's vision for New York State as a leader in CGTs through the Long Island CGT Center.

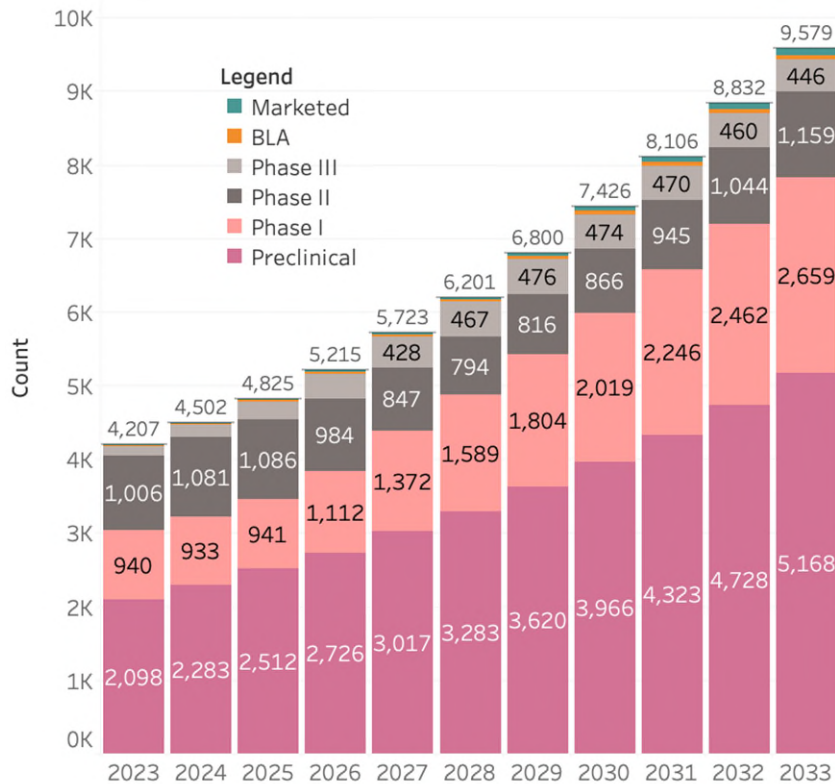
## **B. Scientific and Market Opportunity**

The Long Island CGT Center presents an opportunity to directly impact patients through the acceleration and advancement of the CGT field. With more than 500 new CGT products entering product development each year and nearly 250 active clinical trials ongoing in New York alone, the CGT field will play a key role in treating cancer and other previously untreatable diseases. Over the next 10 years, the number of CGTs in development and on the market is expected to grow exponentially (Figure 2), and hubs such as the Long Island CGT Center will play a critical role helping companies overcome the many unique bottlenecks in this industry and successfully commercialize their CGTs.

In particular, the Long Island CGT Center will focus on supporting the development of pre-clinical and Phase I/II clinical CGT assets, which comprise >70% of CGT assets in the current development pipeline. These early phase assets emerging from academia are the engine that drive growth of clinical and commercial CGT programs. Together, the ecosystem created by the Long Island CGT hub will support the sustainable growth of the New York CGT industry and facilitate the continued rapid expansion of emerging technologies, such as those incorporating gene editing approaches, from early stage pre-clinical development through commercialization. As the addressable patient population for approved CGTs in the United States is forecasted to more than double to >800,000 patients in the next two years, the timing for the establishment of the Long Island CGT Center will be poised to make an immediate impact.

The Long Island CGT Center represents the State's best opportunity to create a world-leading CGT ecosystem by bridging current gaps in manufacturing and research infrastructure, and anticipating future industry needs as the CGT market continues to mature. By addressing present liabilities and forecasting future demands, the Long Island CGT Center will be able to foster collaboration and cooperation with the many prestigious CGT research and academic institutions located across the State, establish new partnerships between these entities, and provide access to research and development assistance and manufacturing services to help these institutions succeed in producing new therapies. ESD firmly believes the Long Island CGT Center will bring together the brightest minds and ideas in New York State, creating a rich ecosystem establishing New York as the premier destination to innovate, develop, and manufacture CGTs.

**Figure 2.** Forecasted global CGT assets from 2023-2023 (DHC analysis)



Compiled by Dark Horse Consulting Group using a proprietary quantitative modeling algorithm, *Pegasi*, in addition to current clinical trial data from Globaldata.com.

### C. Program and Facility Requirements

To develop a cutting-edge campus, ESD envisions an approximately 200,000 gsf space that is flexible in design to maximize utility and adaptability to evolving CGT technologies and tenants. Initial campus occupants will draw in more occupants and encourage the expansion and evolution of the Long Island CGT Center. In order to realize the RFP’s vision, ESD is seeking Proposals that incorporate the following key elements in the design and operation of the Project.

- Operation of the CGT Center, managed by either the Respondent or a qualified partner organization, which should include, at a minimum, the following elements:
  - Attraction of top-talent subtenants.
  - Management of CGT Center facilities and access to equipment and space among subtenants.
  - Provision of wide-ranging services to support the expansion of the CGT ecosystem in New York State and the proliferation of CGT development, patent creation, and clinical trial delivery.

- Dedicated lab and office space for rent to support early discovery, process development, and analytics for CGTs. Such a space would facilitate cross-pollination between early stage CGT companies such as pre-seed and seed funded founders/companies.
- Flexible cGMP manufacturing to support both gene therapy viral vector production and cell therapy manufacturing. A CDMO may serve as an anchor tenant that supports both on-site tenants and off-site clients.
- Collaboration areas, to include centralized meal areas, auditorium, large conference rooms available for reservation, and an inviting outdoor space.
- On-site services to support therapeutic developer and CDMO tenants. Examples may include:
  - Analytical service providers such as clinical screening and diagnostics and next generation sequencing to support product development from R&D through to clinical manufacturing and commercialization.
  - Tools and technology companies that provide automated or high throughput equipment used to develop and manufacture therapies.
  - Biospecimen collection and processing organizations that provide starting materials for cell therapies to support R&D, process development, and analytical development.
  - Vivarium/animal husbandry facilities that can provide on-site support for *in vivo* research studies.
- Dedicated CGT business incubation space, operated by the Developer/Operator or a qualified partner organization, that contains wet lab space, shared equipment, and office space to further enhance the Center's utility and success by supporting early-stage therapeutic developers translating scientific discovery to phase 1 clinical trials. Operation of the CGT Business Incubator should include the following elements:
  - Make awards to early-stage CGT entities for use of the facility and its services by working collaboratively with universities and research institutions to select promising new CGT companies on an annual basis.
  - Provide mentorship services and networking opportunities for awardees.
  - Provide business literacy services.
  - Foster connections with venture capital firms and other investors.
- Nonprofit organizations that facilitate partnerships with local academic labs and/or healthcare providers. Such tenants could focus on the creation of talent development programs as a workforce pipeline or build strong partnerships with hospitals to facilitate patient recruitment and clinical trial activity.
- Reservation of space at the Site for future expansion. As the Long Island CGT Center and its tenants grow, it is essential to ensure the site is developed in such a way as to enable growth in the number of occupants and expansion space (for existing and new tenants).

## **D. Transaction Structure, Grant Agreement, ESD Approvals**

### ***Transaction Structure***

Northwell, as the Site's fee owner, and the Designated Developer will enter into a development agreement and long-term net ground lease agreement (collectively, the "Development Agreements") for the Site. Pursuant to the Development Agreements, the Developer would ground lease the Site and design, finance, build, market and tenant, fit out, and operate the Project. The ground lease will require consideration in the form of rent and supplemental rent to cover taxes, fees, assessments, and other impositions associated with the Site.

ESD anticipates the Site will be leased to the Designated Developer by Northwell under a long-term ground lease with a term of between 40 to 50 years, or as otherwise may be agreed to, subject to financeability of the lease term.

Pursuant to the Development Agreements, the Developer will sublease and/or license space in the Project to subtenants involved in research, development, and manufacture of CGT therapies. Target tenants could include therapeutic developers, tools and technology suppliers, CDMOs, universities and medical centers, contract research organizations (CROs), and other organizations pursuing innovation in the field of cell and gene therapies.

### ***Grant Disbursement Agreement***

ESD and the Developer will enter into grant disbursement agreement(s) ("Grant Disbursement Agreements", or "GDAs") pursuant to which ESD would provide to the Developer a capital construction grant of up to \$100 million for the commercial and office space of the Long Island CGT Center, a capital construction grant of up to \$25 million for CGT business incubation space, and a working capital grant of at least \$25 million for operation of the CGT Business Incubator for five years, which would be awarded to either the Developer or the tenant responsible for the operation of the CGT Business Incubator (the "Grants"). ESD reserves the right to adjust the total grant award offered to a Developer should a Proposal's assumed Developer contribution not be deemed to reach a reasonable percentage of outside investment relative to the total Project cost. The capital construction Grants would be disbursed as reimbursement for construction and fit out costs for the Long Island CGT Center. The working capital grant would be disbursed during operation of the Project to support operation of the CGT Business Incubator. Execution of the GDA and disbursement of funding of the grant will be subject to ESD Directors' approval; a public hearing; SEQRA review; and approval by the Public Authorities Control Board ("PACB").

Upon these approvals, ESD would be able to provide the capital grant funds during the construction period, on a reimbursement basis pro rata with other sources of funding on a quarterly basis.

Quarterly disbursements will be subject to submission of documentation verifying project expenditures, proof of payment to contractors, as well as additional Exhibits as required in the GDA. Final disbursement will be contingent on submission of a Certificate of Occupancy, as well as other documentation that may be required to verify Project completion.

#### Financial Requirements:

1. The Developer will be required to contribute equity (10% of the total project costs) after execution of the GDA with ESD. Equity is defined as cash injected into the Project by the Developer or by investors and should be auditable through the Developer's financial statements or Developer's account, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the Project or other grants from a government source.
2. A one percent commitment fee of up to \$1.5 million will be due promptly after PACB and ESD Director's approval(s).
3. A guarantor ("Guarantor") for the Project may be required depending on review of the financial disclosure of the awarded Developer. Financial disclosure will consist of three years of audited financials or three years of tax returns plus interim financials (if the most recent financial report is older than six months) on the Developer. Financial disclosure will also be required on all corporate and personal guarantors acceptable to ESD. A Guarantor would be required they will agree to provide grant repayment obligation of the grantee, in the event of default.

#### Construction Requirements:

1. Prior to initiating the Project, the Developer will be required to consult with ESD staff or an outside consultant appointed by ESD and remunerated by the Designated Developer as per the Cost Letter defined in Section E. ESD or its consultant may review various design and construction documents and attend design and construction meetings and monitor all progress. ESD or its consultant will review all documents required by the GDA such as invoices, lien waivers, and proofs of payments to ensure that all Grant documentation requirements have been satisfied prior to approving the disbursement of Grant funds.
2. Under New York State Labor Law, this Project may be required to adhere to prevailing wage rates, and the Developer and its subcontractors may be required to pay the prevailing rate of wage and supplements (fringe benefits) to all workers under contract, depending on the financial elements and scope of the Proposal.
3. Under New York General Municipal Law §101 (Wicks Law), the Developer may be required to utilize independent prime contractors for 1) plumbing and gas fitting work; 2) steam, hot water heating, ventilation, and air conditioning work; and 3) electrical wiring and illuminating fixtures work, depending on the financial elements and scope of the Proposal.

## Non-Discrimination and Contractor and Supplier Diversity Requirements

1. ESD is required to comply with and implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (MWBEE Regulations) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction. Please see requirements under section **vii. Non-Discrimination and Contractor and Supplier Diversity Requirements**.

## Additional Project Requirements

1. As a requirement of the Grants, the selected Respondent would be obligated to sub-lease and/or license space in the Long Island CGT Center to subtenants providing services that support CGT research, development, and manufacturing. ESD will enter into one or more agreements with the Developer to implement the Project requirements, including the obligation to sublease space to appropriate tenants in order to establish a best-in-class CGT hub. ESD's requirements for the Project may include use restrictions, square footage occupancy by use targets, and other means and metrics to assure, and provide ongoing compliance systems, that the Project is meeting the State's goals for support and growth of the CGT sector.
2. Grant funds will be subject to pro rata recapture if the property at the Project Location is sold within five years of disbursement of funds. The recapture amount is based on the time that has lapsed between when the Grant funds were disbursed and when the transfer occurred.

## ***Additional Discretionary Sources of Funding and Incentives***

In addition to ESD Grants, there are several other discretionary public funding sources that may be available to support Project goals. These include discretionary real estate tax exemptions, in addition to sales and use tax exemptions during the construction process and mortgage recording tax exemptions, that may be offered by county, town, or village economic development and industrial development entities. There may also be implementation grants and other funding sources available through the federal government.

Tenants and sub-tenants of the Long Island CGT Center, as well as the operating entity of the CGT business incubator, may also qualify for other competitive ESD grant and tax credit programs - such as the Excelsior Jobs Program, the Regional Economic Development Councils program, federal and State match awards under the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs, and grants offered by the Office of Strategic Workforce Development, among others.

ESD is not able to offer the Developer certainty in the pursuit of these additional potential funding sources, however, to the extent that the Developer is able to use these sources to close funding gaps and/or improve returns to the Project and lower the need for ESD grant funds, this may be considered in the awarding of points for the price proposal.

### **E. Cost Agreement and Imprest Account**

The Designated Developer must enter into agreements with ESD and Northwell that will require the Designated Developer to pay, from the date of its conditional designation:

- Each of ESD's and Northwell's ongoing out-of-pocket costs and expenses incurred in connection with the Project, the Development Agreements and Grant Disbursement Agreement, including, costs and expenses of environmental consultants, legal counsel, design and construction consultants, public hearing administration.

As part of their Proposal, respondents must provide to ESD a signed letter agreement (**the "Cost Letter"**) **provided in Appendix C** pursuant to which the Respondent will pay ESD for ESD's reasonable out-of-pocket costs and expenses, including without limitation, those for consultants and legal counsel, incurred by ESD in the event the Respondent is selected as the Designated Developer. The signed Cost Letter shall be accompanied by the Respondent's check in the amount of \$300,000 ("Cost Letter Check") payable to "NYS Urban Development Corporation d/b/a Empire State Development". The Cost Letter Check will not be deposited initially. If the Respondent is selected as the Designated Developer to enter negotiations with ESD, the Cost Letter Check will be deposited into an ESD Imprest account ("Imprest Account") for the Designated Developer. If a Respondent is not selected as the Designated Developer, the Cost Letter Check will be returned to the Respondent. ESD will draw on the Imprest Account to pay costs related to the Project. The Cost Letter provides that the Designated Developer will fully replenish the Imprest Account in the amount of \$300,000 each time the balance of the Imprest Account is reduced to below \$150,000. Following Closing, any amount remaining in the Imprest Account and not required to pay outstanding costs will be returned to the Designated Developer.

### **F. MWBE and SDVOB Subcontractor Interest**

New York State certified Minority- and Women-Owned Businesses ("M/WBE") and Service-Disabled Veteran Owned Businesses ("SDVOB") may request that their firm's contact information be included on a list of firms interested in serving as a subcontractor for this procurement. The listing will be publicly posted on ESD's website for reference by the bidding community. A firm requesting inclusion on this list should send contact information and a copy of its NYS certification to: [CGTHubLongIslandRFP@esd.ny.gov](mailto:CGTHubLongIslandRFP@esd.ny.gov).

Nothing prohibits an M/WBE Vendor from proposing as a Respondent.

## **V. REQUIRED PROPOSAL COMPONENTS**

The following must be submitted with all Proposals responding to the RFP. ESD reserves the right, in its sole discretion, to reject any Proposal that is deemed incomplete or nonresponsive to the RFP requirements. ESD also reserves the right, in its sole discretion, to reject any and all Proposals, and to proceed (or not proceed) with the development of the Site without completing this RFP process.

In evaluating the capabilities of the Respondents, 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. ESD further reserves the right to ask additional written or oral clarifying questions to all Respondents or to a subset of Respondents.

In addition to the forms required as described later in Section XI, Procurement Requirements, each complete Proposal must contain the following elements (the "Technical Proposal"):

### **A. Project Vision and Description**

Each Proposal should include a detailed narrative describing all relevant aspects of the Project and how the proposed Project will best meet the needs and requirements of a state-of-the-art CGT hub ("Project Vision and Description"). The Project Vision and Description should address:

- Proposed development program and uses and an operations plan, including specific Project components and a detailed narrative description how each of these components will contribute to and advance the Development Objectives and Project Goals set forth in this RFP, with specific attention as to how each component addresses the requirements for a successful CGT hub;
- Total gross square footage of the Long Island CGT Center facility<sup>3</sup>;
- Construction timeline and proposed construction phasing of the Project including a description of additional programmatic elements that may be completed in a future phase of development;
- Any workforce development partnerships and community outreach plan;
- Total development cost;

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<sup>3</sup> ESD anticipates that an appropriate size for the Long Island CGT Center facility to be approximately 200,000 gsf based on an analysis of comparable facilities. However, Respondents may propose a facility of any size and comprising any number of buildings that meets the Development Objectives.



- Respondent’s approach to leasing, including information on the experience with and understanding of the depth of market for new CGT start-ups, growth of existing CGT firms and products, and other market support for the Project;
- Respondent’s approach to property management;
- Respondent’s proposed programming and/or services to potential CGT tenants;
- List of potential CGT tenants and any letters of interest and/or intent from potential tenants;
- Zoning and entitlement approach;
- Estimated number of permanent jobs and temporary construction jobs; and
- A detailed plan on how Respondent would meet a 30% MWBE goal for the Project.<sup>4</sup>

## B. Site Plan and Architectural Design

Respondents should provide a Site Plan and massing diagram for the Project. The materials related to the Site Plan should include the following:

- Clear delineation of the boundaries of the property that the Respondent proposes to lease within the Site which may include the entire Site, including dimensions;
- All components of the Project, their location, means of egress, and any other supportive or complementary uses (e.g. retail, hotel and conference center, etc.);
- Concepts for site preparation and utility improvements;
- Landscape plan, showing site circulation, landscape features, tenant amenity features, and any publicly assessable features;
- Any future expansion options for the Long Island CGT Center;
- Building height and massing diagrams;
- Stacking plan, showing uses by floor; and
- Parking plan, and provisions for public transportation links (e.g. shuttle), and electric vehicle and other sustainable transportation features.

## C. Design Approach

Respondents should provide a narrative of their general design intent with respect to the architectural character of the Project, its buildings, public spaces, and circulation. Respondents should also generally describe proposed building materials and finishes with emphasis on building exteriors and any open spaces. The narrative should describe how design and circulation contribute to the goals and objectives of a successful CGT hub. The Design Approach should include:

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<sup>4</sup> The MWBE goal applies to the Grant amount only of \$150 million for eligible activities and not to total Project costs.

- Proposed development square footage (zoning, gross, and rentable, including basement(s) if applicable), broken down by use and type;
- Concept sketches of the Proposed Project; along with schematic renderings of the proposed Project showing the principal elevations and massings, floor plans, streetscape and landscape plans, entry features and signage, circulation diagrams, and illustrations of compliance with easements; and
- A description of sustainable features and green building practices that will be incorporated into the Project during the construction and operation that help meet the carbon reduction goals of the [New York State Climate Leadership and Community Protection Act](#) (“CLCPA”).

#### **D. Zoning Analysis**

Respondents must submit a zoning analysis showing all calculations of proposed preliminary gross square feet, zoning equivalencies, and proposed uses. Respondents must identify all desired zoning overrides, and any required permits and authorizations to effectuate the Project.

#### **E. Development Timeframe**

Respondents must submit a development timeline (including phasing, if applicable), identifying the estimated length of time to reach key milestones, including commencement and completion of design; financing; commencement and completion of construction; and operational stabilization for the development program. Any contingencies that may affect this timeline should be identified.

#### **F. Economic Impact and Local Hiring Plan**

Respondents should include a narrative as part of the Proposal describing their commitment to local hiring, including an explanation of how the Project will create jobs for local residents and a summary of community organizations with which Respondents may partner in order to maximize local hiring. Respondents may also include any letters of interest or intent from local community organizations with their Proposals. Further, Respondents must list benefits that the Project will bring to the surrounding communities and area-at-large including but not limited to:

- Estimated PILOT and other fiscal revenue;
- Estimated number of jobs created by the Project, including the number of direct and indirect construction and permanent jobs; and
- Estimated employment earnings from temporary and permanent jobs.

## G. Respondent Qualifications

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 order to be considered a “Qualifying Organization,” a Respondent must demonstrate significant experience, expertise, and capacity in the following:

- Developing and managing comparable projects that incorporate life science uses, wet laboratories, cGMP facilities, and CGT-related facilities;
- Investing equity in substantial ground-up real estate development projects;
- At least two comparable projects in the past ten years;
- At least two projects in the past seven years for which the Respondent or the Respondent’s senior executives acted as a developer and/or principal operator of buildings incorporating the Project’s proposed uses; and
- Discuss MWBE qualifications and practices of the Respondent’s commitment to meeting or surpassing MWBE goals in past projects.

Each Proposal must also include a description of the Respondent, or Development Team members if applicable, including:

- Description of the Respondent’s corporate structure and ownership;
- The intended form and structure of the Development Team, if applicable, and any proposed partnerships or joint ventures, including a chart/diagram showing percentages of ownership and investment;
- Name, address, phone number, and email of the Respondent and Development Team, if applicable, their Federal EIN numbers, and contact information for primary contact person(s);
- A description of the Respondent or Respondent Team’s experience in developing all proposed uses, which may include, as applicable:
  - Facilities for clinical research;
  - Facilities for clinical trial services;
  - Facilities for cGMP;
  - Facilities for CGT business incubation;
  - Other advanced research and laboratory facilities;
  - Commercial laboratory and office space;
  - Experience marketing and leasing such facilities;
  - Other experience that makes Respondent uniquely suited to plan and develop the Site;

- A description of the proposed General Contractor’s (“GC”) experience in developing all proposed uses and other experiences that demonstrates the GC’s qualification to construct the Project;
- A description of the design team, including the proposed architect, any technical consultants with expertise in the development of wet lab and CGT facilities, landscape architect, and other design professionals;
- A list of 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 the Project, if designated;
- Current operating budget and previous three years of audited financials for all entities with a proposed ownership percentage in the Project; if available, copies of the interim financial statement for each quarter since the last fiscal year for which audited statements are provided; any details that describe the financial strength of the Respondent, including but not limited to:
  - Details of any material events that may affect the entity’s financial standing since the last annual or interim financial statements provided;
  - Details of any credit rating;
  - Details of any bankruptcy, insolvency, company creditor arrangement, or other insolvency litigation in the last three fiscal years.
- Summaries of comparable projects completed by the Respondent or members of the Respondent Team, including for each project:
  - Name of Respondent or Development Team member;
  - Project name;
  - Current status of project/completion date or anticipated completion date;
  - Project description, including square footage and other quantitative metrics;
  - Location;
  - Total development cost;
  - Reference (name, email, phone number);
  - Relevance to this RFP
- Documentation addressing whether Respondent or any member of Development Team has been involved in any litigation or legal dispute with the State of New York or any agency, department, authority or subdivision of the State of New York, or any material litigation or legal dispute regarding a real estate venture or other commercial venture during the past five years;
- Description of any prior RFPs for which Respondent or members of Development Team have been selected, but which have not resulted in a successfully developed project; and
- Any additional documentation or information evidencing the strength of the Respondent or members of the Development Team if applicable, and their ability to complete the Project.

ESD reserves the right to determine whether a Respondent satisfies these requirements based on the experience of the Respondent or Development Team's constituent members. Entities that do not meet the above eligibility criteria (e.g., construction contractors, facility managers and operators, providers of design, engineering, surveying, and specialty construction or maintenance services; and/or lenders or other capital providers, legal or financial advisors, or other providers of professional services) may participate in a submission as part of a Respondent Team that includes a Qualifying Organization.

Please note the following entities and individuals are precluded from responding to this RFP and from participating as part of any Respondent or Development Team, unless otherwise authorized by ESD:

- Any consultant firm that has provided professional services to ESD or Northwell in connection with the Project;
- Any entity that is a parent, affiliate, or subsidiary of any of the foregoing entities, or that is under common ownership, control, or management with any of the foregoing entities; and
- Any employee or former employee of any of the foregoing entities who was involved with the Project while serving as an employee of such entity.

Notwithstanding the foregoing, if ESD determines in its sole discretion that there is no conflict, or that adequate safeguards are in place to prevent the conflict from occurring, or that all of the work provided by such firm, entity or, employee has been made publicly available by ESD, then ESD may provide written authorization that such firm, entity or employee may respond to the RFP or participate on a Respondent team.

## **H. Financial Proposal**

Respondents must submit a Financial Proposal that provides the following major components:

- A ground lease of the project Site with a term of 40 to 50 years. If a respondent feels that a 40 to 50 year lease is not financeable, they should provide supporting documentation (e.g. letter of interest from a lender stating lease term requirement stating such concern) and a proposed lease term; and
- A ground rent schedule detailing non-contingent annual rental payments for the term of the lease.

**The Financial Proposal should also include a statement of the minimum ESD Grants that the Proposer requests to make its proposed project financially feasible.**

Respondents must provide a high-level term sheet outlining all key deal terms, including amount of grant assumed, timing for the beginning of drawdown of the capital grants, amount of ground lease rent payments to Northwell, and any other key assumptions, including construction timeline and phasing that may be relevant to the economic and programmatic goals of ESD.

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

Proposals should include total Project costs, including all hard costs, soft costs, estimated financing costs, contingencies, and escalations.

Respondents must submit a ten-year pro-forma statement, provided in Excel format and "live", including:

- Statement of assumptions on which all calculations are based;
- Sources and uses of funds;
- Construction budget, including any demolition and site preparation costs;
- Operational budget, including any contributions to capital reserve;
- Detailed description of proposed equity investment and construction and permanent financing, including a detailed breakdown of all sources of equity and terms, including required return for equity as well as interest rate and term for financing;
- Information regarding minimum financial returns sought and all necessary capital investments over time and reserves and debt service payments associated with all financings; and
- Letters of interest and/or intent from lenders and, if applicable, equity investors.

In addition, Respondents should include a brief summary that explains at a high level how Respondent would approach the financing of the Project, including reference to a specific ESD Grant Request if relevant, in addition to any expected abatements or tax credit program equivalents. If a Proposal is contingent on receiving financing or abatements, the Respondent should include proposed terms for such financing in its proposal.

In addition, Respondents must submit a Cost Letter, Cost Letter Check and evidence of Respondent's commitment to pay, from the date of its selection as Designated Developer: (i) ESD's out-of-pocket costs and expenses incurred in connection with the Project and the disposition of the Site, including, without limitation, costs and expenses of environmental consultants and legal counsel; and (ii) ESD Administrative Fee as described in Section IV, Development Objectives and Requirements.

## VI. SELECTION CRITERIA

ESD shall establish a selection committee to evaluate Proposals. When reviewing Proposals, the selection committee will consider the following criteria and assign point values to each Proposal based on their evaluation. The maximum number of points any Proposal may receive is 100.

Criteria		Achievable Points
Development Concept and Program	<ul style="list-style-type: none"><li>• Responsiveness to the Development Objectives and Requirements</li><li>• Proposed development plan’s program of use, site plan, and project design (including attractiveness and buildability, incorporation of sustainable and resilient building practices)</li><li>• Proposed CGT Center operations plan, including the management of facilities, provision of services, a strategy to recruit and retain top-quality tenants, and a description of the CGT Business Incubator concept or approach and integration within the Long Island CGT Hub</li></ul>	Up to 35 points

Criteria		Achievable Points
Respondent Qualifications	<ul style="list-style-type: none"> <li>• Experience, financial capabilities and qualifications of the Respondent team and all individual team members in developing, financing, leasing, operating, and managing projects of similar size</li> <li>• Respondent team’s experience operating CGT facilities, life science business incubators, or other life science facilities</li> <li>• Respondent’s experience with and understanding of the life science sector and the emerging CGT market in particular</li> <li>• Respondent’s experience and track record in working with academic research and clinical medical institutions</li> <li>• Respondent’s experience and track record in working with public sector entities, in particular in developing and managing projects with both a physical and programmatic component</li> <li>• Evidence for financial capability to execute the project</li> <li>• Experience of Respondent personnel with ESD or ESD-Financed Projects</li> </ul>	Up to 30 points
Financial Feasibility	<ul style="list-style-type: none"> <li>• Financial feasibility of the Project</li> <li>• Competitiveness of proposed financial terms to New York State relative to grant funding</li> </ul>	Up to 25 points
Diversity Practices	<ul style="list-style-type: none"> <li>• ESD’s Office of Contractor and Supplier Diversity will score the <b>Diversity Practices Questionnaire (Appendix D)</b>. Up to 10 points will be awarded based upon the contents of the Diversity Practices Questionnaire submitted by each Respondent to the RFP.</li> </ul>	Up to 10 points



ESD reserves the right to conduct in-person interviews with or pose questions in writing to individual Respondents in order to clarify the content of Respondents' Proposals and to ensure a full and complete understanding of each Proposal. ESD will undertake to pursue uniformity in questioning 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. Respondents who are invited for an interview will receive additional instructions upon their invitation.

ESD reserves the right, in its sole discretion, to reject any Proposal that is deemed incomplete or nonresponsive to the RFP requirements. ESD also reserves the right, in its sole discretion, to reject any and all Proposals, and to proceed (or not proceed) with the development of the Site without completing this RFP process.

In evaluating the capabilities of Respondents, ESD may use any and all information available, including information not provided by Respondents. Proposals should clearly and concisely state the unique capabilities, experience, and advantages of Respondent and demonstrate Respondent's capability to satisfy the requirements and objectives set forth in this RFP. ESD further reserves the right to ask additional written or oral clarifying questions to all Respondents or to a subset of Respondents.

ESD anticipates that a single Respondent will be conditionally designated based upon the evaluation committee's determination of the best Proposal, and as further described in Section VIII, Designation Process.

## **VII. DEVELOPER DUE DILIGENCE**

Respondents should assume that the Site, including land, improvements, and any supporting building infrastructure, will be disposed of "AS IS" and "WHERE IS" without any express or implied warranties, guarantees, or representations as to quantity, quality, title, character, physical and environmental condition, size, or kind, or that the same is in condition or fit to be used for the Respondent's purpose.

Information regarding the RFP will be posted on the ESD website (<https://esd.ny.gov/doing-business-ny/requests-proposals>). Respondents are encouraged to check for updates. Prospective Respondents should notify ESD of their interest as soon as possible in order to ensure that they receive all updates associated with this RFP by sending an email to [CGTHubLongIslandRFP@esd.ny.gov](mailto:CGTHubLongIslandRFP@esd.ny.gov).

Respondents must rely solely on their own independent research and investigations for all matters, including, but not limited to: encumbrances, including easements; costs; including taxes; title; survey; development; financing; construction; and remediation. Respondents should not rely on

the information provided in connection with this RFP. ESD make no representation or warranty concerning the accuracy or utility of information posted or otherwise provided to potential or actual Respondents.

## **VIII. DESIGNATION PROCESS**

After a review of the Proposals, ESD intends to conditionally designate one Respondent or Respondent Team as the Designated Developer. The Designated Developer and ESD will sign a non-binding term sheet regarding key aspects of the Project and the Designated Developer will enter into separate agreements with ESD regarding payment by the Designated Developer of costs and expenses as described in Section IV, Development Objectives and Requirements. The Designated Developer will then negotiate with Northwell for a lease for the Site under terms consistent with the understandings between ESD and Northwell.

## **IX. PROPOSAL SUBMISSION INSTRUCTIONS**

Schedule A of this RFP states standard requirements that must be included in every contract entered into with ESD. The successful Respondent must agree to abide by these requirements and provide any information requested by ESD in connection with these requirements. Accordingly, Respondent should complete and submit the items listed below, in the order in which they are listed. Failure to submit any of the requirements below may result in the rejection of a Respondent's proposal.

- i. <https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June-2019.pdf>, submit with proposal
- ii. [State Finance Law §§139-j and 139-k forms](#), submit with proposal
- iii. [Vendor Responsibility Questionnaire](#), submit with proposal or submit online (and include copy of submitted form with proposal)
- iv. <https://esd.ny.gov/sites/default/files/IranDivestmentActLanguage-corp-info.pdf>, submit with proposal
- v. <https://esd.ny.gov/sites/default/files/EO16-certification.pdf>
- vi. <https://esd.ny.gov/sites/default/files/EO-177-Certification.pdf>
- vii. Non-Discrimination and Contractor & Supplier Diversity Requirements, submit with proposal
  - o [OCSD-1 - MWBE and SDVOB Participation / EEO Policy Statement](#)
  - o [OCSD-2 - Staffing Plan](#)
  - o [OCSD-4 - MWBE and SDVOB Utilization Plan](#)
- viii. [Encouraging the Use of NYS Businesses in Contract Performance Form](#), submit with proposal
- ix. Certification under State Tax Law Section 5-a [220-CA](#) or [Affidavit](#), submit with proposal
- x. [W-9 Form](#), submit with proposal

Additional information about these items, and ESD’s procurement requirements, can be found in Section XI, Procurement Requirements.

## A. Proposal Submission

Firms submitting proposals are indicating their acceptance of the conditions in this RFP. Submission of proposals in a manner other than as described in these instructions (e.g., facsimile, hardcopies, emails) will not be accepted. When submitting proposals, Respondents must comply with the following:

- Proposals must be uploaded to the Dropbox prior to the deadline as indicated in the Table of Events/Schedule of Dates: **Please send your proposal to the following Dropbox link:**

<https://www.dropbox.com/request/jr7cw8Hcg3qJ4KspZXTc>

- Proper format: Please create a folder with: Respondent’s name – Long Island CGT Center – Date of Submission. example: ABC Inc. – Long Island CGT Center – 03.12.2024
- Included in that main folder should be two sub-folders, one for the Administrative Proposal and the other for the Technical Proposal. The main folder should be uploaded to the Dropbox by choosing the following option: “Add Files -> folders from computer”. All documents in the two sub-folders should be properly labeled.
- Respondents should send their Cost Letter Check (as described in Section IV: Development Requirements D. Cost Agreement & Imprest Account) to the following address:

Empire State Development

633 Third Avenue, 37th Floor

New York, NY 10017

Attn: Stacey Teran

Re: Long Island CGT Center RFP Cost Letter

**Late proposals will not be considered for award.**

## B. Questions

Questions or requests for clarification regarding the RFP should be submitted via email, citing the RFP page and section in accordance with the schedule in Section II, Schedule of Dates, to

[CGTHubLongIslandRFP@esd.ny.gov](mailto:CGTHubLongIslandRFP@esd.ny.gov).

Questions will not be accepted orally, and any question received after the deadline may not be answered. The comprehensive list of questions/requests for clarifications and the official responses will be posted with this RFP.

### **C. Site Visit**

Optional Site visits hosted by ESD will be scheduled for January 5, 2024 and January 18, 2024. Respondents are not required to attend. Respondents who wish to attend must RSVP to: [CGTHubLongIslandRFP@esd.ny.gov](mailto:CGTHubLongIslandRFP@esd.ny.gov) on or before December 29, 2023. When signing up to attend, please provide the name of the Respondent, and the name, title, telephone number and email address of all representatives who are attending. ESD reserves the right to limit the number of visitors on Site visits and to require such procedures as necessary to ensure the safety and security of visitors. Should there be demand, ESD may schedule additional Site visits.

ESD reserves the right to modify this RFP schedule at their 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: <https://esd.ny.gov/doing-business-ny/requests-proposals>.

## **X. GENERAL PROVISIONS**

The issuance of this RFP and the submission of a response by a Respondent or the acceptance of such a response by ESD does not obligate ESD in any manner. ESD reserves the right to:

- i. amend, modify or withdraw this RFP;
- ii. revise any requirement of this RFP;
- iii. require supplemental statements or information from any responsible party;
- iv. accept or reject any or all responses hereto;
- v. extend the deadline for submission of responses hereto;
- vi. negotiate potential contract terms with any Respondent;
- vii. communicate with any Respondent to correct and/or clarify responses which do not conform to the instructions contained herein;
- viii. cancel, or reissue in whole or in part, this RFP, if ESD determines in its sole discretion that it is its best interest to do so; and
- ix. extend the term of any agreement on terms consistent with this RFP.

ESD may exercise the foregoing rights at any time without notice and without liability to any responding firm or any other party for its expenses incurred in preparation of responses hereto or

otherwise. All costs associated with responding to this RFP will be at the sole cost and expense of the Respondent.

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. In addition, Proposals may be discussed at meetings of the ESD Directors, which meetings are subject to the Open Meetings Law.

ESD reserves the right, in its sole discretion, to retain and use all the materials and information, and the ideas and suggestions therein, submitted in response to this solicitation (collectively, the “Response Information”) for any purpose. By submitting a Proposal, each Respondent waives any and all claims against ESD relating to ESD’s retention or use of the Response Information.

## **XI. PROCUREMENT REQUIREMENTS**

This section contains additional information about the forms that are required to be included in each Respondent’s Proposal pursuant to Section V, Required Proposal Components, as well as information about ESD’s procurement requirements.

Respondents must complete and submit the items listed below. Failure to submit any of the requirements below may result in the rejection of a Proposal.

### **i. Conflicts of Interest**

Respondent must attest it has read, understood and will comply with the following provisions <https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June-2019.pdf>. ESD shall have the right to disqualify any respondent to this RFP or terminate any contract entered into as a result of this RFP should ESD determine that the Respondent has violated any of these requirements.

- A. Gifts and Offers of Employment:** Respondent has not and shall not during this procurement and during the negotiation of any contract resulting from this procurement, offer to any employee, member or director of ESD, any gift, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the offer was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director. Respondent may not make any offers of employment or discuss the possibility of such offers with any

employee, member or director of ESD who is involved in this procurement and/or resulting contract negotiation within at least 30 days from the time that the employee's involvement in this matter closed.

- B. Disclosure of Potential Conflicts:** Respondent shall disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers/employers of the Respondent or former officers and employees of ESD, in connection with your rendering services enumerated in this RFP. If a conflict does or might exist, Respondent must describe how it would eliminate or prevent it.
- C. Disclosure of Ethics Investigations:** Respondent must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any ongoing investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission"), and if so, a description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

## **ii. 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 above; the completion by Respondents of the Offeror Disclosure of Prior Non-Responsibility Determinations, and the Offeror's Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESDC 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 Offeror Disclosure of Prior Non-Responsibility Determinations, and the Offeror's Affirmation of Understanding and Agreement pursuant to State Finance Law as part of their submittal. Copies of these forms are available at:

[https://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF\\_Law139\\_JK.pdf](https://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf).

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by 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 Respondent is found to have knowingly and willfully violated the State Finance Law provisions, that 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 referenced on the cover of this RFP.

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/Data/RFPs/RequiredForms/PermissibleContactsPolicy\\_Jan2007.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2007.pdf). All potential Respondents are solely responsible for full compliance with the Procurement Requirements. Both the prime consultant and any sub-consultants complete the forms required above.

### **iii. Vendor Responsibility Questionnaire**

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 Respondent, if any, shall include clauses providing that the Respondent 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 register in the State's Vendor Responsibility System (“Vend-Rep System”). The Vend-Rep 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 Vend-Rep System or may choose to complete and submit a paper

questionnaire. Please include a copy of your Vend-Rep submission receipt or paper questionnaire with your proposal.

To enroll in and use the Vend-Rep System, see the System Instructions available at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep). For direct Vend-Rep 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](mailto:helpdesk@osc.state.ny.us).

Respondents opting to file a paper questionnaire can obtain the appropriate questionnaire from the Vend-Rep website ([http://www.osc.state.ny.us/vendrep/forms\\_vendor.htm](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)."

#### **iv. 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 Respondent and each person signing on behalf of any Respondent 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 Respondent is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

#### **v. Executive Order 16**

In accordance with New York State Executive Order 16 ("EO-16), all Respondents must certify that they are in compliance with EO-16 prohibiting State Agencies and Authorities from Contracting with Businesses in Russia. EO-16 will remain in effect while sanctions imposed by the federal government are in effect.

"By submission of a bid, each Respondent and each person signing on behalf of any Respondent 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 Respondent is in compliance with EO-16."

The required certification for can be found at: <https://esd.ny.gov/sites/default/files/EO16-certification.pdf> and must be signed and included in all Proposals.



**vi. Executive Order 177**

In accordance with New York State Executive Order 177, all Respondents must certify that they are in compliance with the New York State Human Rights Law which prohibits discrimination and harassment based on a protected class, and which requires reasonable accommodation for persons with disability or pregnancy related conditions.

The required certification for can be found at: <https://esd.ny.gov/sites/default/files/EO-177-Certification.pdf> and must be signed and included in all Proposals.

**vii. Non-Discrimination and Contractor and Supplier Diversity Requirements**

**I. General Provisions**

- A. Empire State Development (ESD) is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Recipient of the subject Grant Disbursement Agreement (the “Recipient” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to ESD, to fully comply and cooperate with the ESD in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). Recipient’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

**II. Contract Goals**

- A. The Organization shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprises (“MWBEs”) for any contractual opportunities generated in connection with the Project

and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30% related to the eligible categories. The overall goal shall include a Minority Business Enterprise Participation Goal of 15% and a Women Business Enterprise Participation Goal of 15%. The MWBE goal applies only to the Grant amount for eligible activities and not to total Project costs.

- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Recipient should reference the directory of New York State Certified MWBEs found at the following internet address: <https://ny.newnycontracts.com/>. Additionally, Recipient is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (646) 846-7364) to discuss additional methods of maximizing participation by MWBEs on the Contract.
- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Recipient must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Recipient acknowledges that if Recipient is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Recipient shall be liable to the ESD for liquidated or other appropriate damages, as set forth herein.

### **III. Equal Employment Opportunity (EEO)**

- A. Recipient agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the “Division”). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Recipient shall comply with the following provisions of Article 15-A:
  - 1. Recipient and subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
  - 2. The Recipient shall submit an EEO policy statement to the ESD with the executed Contract.

3. If Recipient or subcontractor does not have an existing EEO policy statement, the ESD may provide the Recipient or subcontractor a model statement (see Form OCSD-1: <https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf>).
4. The Recipient's EEO policy statement shall include the following language:
  - a. The Recipient will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
  - b. The Recipient shall state in all solicitations or advertisements for employees that, in the performance of the Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
  - c. The Recipient shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Recipient's obligations herein.
  - d. The Recipient will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Form OCSD-2: Staffing Plan

To ensure compliance with this Section, the Recipient shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Recipients shall complete the Staffing plan form and submit it as part of the executed Contract.

- D. Recipient shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Recipient and subcontractors shall not discriminate against any employee or applicant for employment

because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

#### **IV. MWBE Utilization Plan**

- A. The Recipient represents and warrants that Recipient has submitted an MWBE Utilization Plan (Form OCSD-4: <https://esd.ny.gov/sites/default/files/OCSD-4-Utilization-Plan.pdf>) either prior to, or at the time of, the execution of the Contract.
- B. Recipient agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section II-A of this Exhibit.
- C. Recipient further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, ESD shall be entitled to any remedy provided herein, including but not limited to, a finding of Recipient non-responsiveness.

#### **V. Waivers**

- A. For Waiver Requests, Recipient should use the Waiver Request Form (Form OCSD-5: <https://esd.ny.gov/sites/default/files/OCSD-5-Waiver-Request-Form.pdf>).
- B. If the Recipient, after making good faith efforts, is unable to comply with MWBE goals, the Recipient may submit a Request for Waiver form documenting good faith efforts by the Recipient to meet such goals. If the documentation included with the waiver request is complete, the ESD shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the ESD, upon review of the MWBE Utilization Plan and updated Monthly MWBE Contractor Compliance Reports determines that Recipient is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the ESD may issue a notice of deficiency to the Recipient. The Recipient must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

#### **VI. Monthly MWBE Contractor Compliance Report**

Recipient is required to submit a Monthly MWBE Contractor Compliance and Payment Report (Form OCSD-6: <https://esd.ny.gov/sites/default/files/OCSD-6-Compliance-Report.pdf>) to the ESD by the 10<sup>th</sup> day following each end of month over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

## VII. Liquidated Damages/Recapture - MWBE Participation

- A. Where ESD determines that Recipient is not in compliance with the requirements of the Contract and Recipient refuses to comply with such requirements, or if Recipient is found to have willfully and intentionally failed to comply with the MWBE participation goals, Recipient shall be obligated to pay to the ESD liquidated damages or be subject to recapture of grant proceeds (“Recapture”).
- B. Such liquidated damages or Recapture shall be calculated as an amount equaling the difference between:
  - 1. All sums identified for payment to MWBEs had the Recipient achieved the contractual MWBE goals; and
  - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages (and such identified sums have not been withheld by the ESD) or Recapture, Recipient shall pay such liquidated damages or Recapture to the ESD within sixty (60) days after they are assessed by the ESD unless prior to the expiration of such sixtieth day, the Recipient has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages or Recapture shall be payable if Director renders a decision in favor of the ESD.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

The required forms can be found at the following web addresses:

Form OCSD-1: <https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf>

Form OCSD-2: <https://esd.ny.gov/sites/default/files/OCSD-2-Staffing-Plan.pdf>

Form OCSD-4: <https://esd.ny.gov/sites/default/files/OCSD-4-Utilization-Plan.pdf>

Form OCSD-5: <https://esd.ny.gov/sites/default/files/OCSD-5-Waiver-Request-Form.pdf>

Form OCSD-6: <https://esd.ny.gov/sites/default/files/OCSD-6-Compliance-Report.pdf>

In the event that the above links are unavailable or inactive, the forms may also be requested from OCSD at [OCSD@esd.ny.gov](mailto:OCSD@esd.ny.gov).

### **viii. 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, Respondents 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, accessible here: <http://esd.ny.gov/CorporateInformation/Data/ENCOURAGINGUSEOFNEWYORKSTATEBUSINESSES/ENCONTRACTPERFORMANCE.pdf>.

### **ix. 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 ([http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)), or an affidavit ([http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL\\_5A\\_Affidavit.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf)) that the Respondent is not required to be registered with the State Department of Taxation and Finance. 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.

### **x. Schedule A**

Following final selection of a Respondent, ESD will prepare a contract defining all project terms and conditions and the Respondent's responsibilities in conformance with Schedule A. A sample can be found at: [https://esd.ny.gov/sites/default/files/ScheduleA-Services\\_Materials-3818.pdf](https://esd.ny.gov/sites/default/files/ScheduleA-Services_Materials-3818.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 successful Respondents will need to accept these terms prior to contract execution.

### **xi. 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 (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.

### **xii. Insurance Requirements**

The selected Respondent will be required to provide the following insurance (at a minimum and to the extent applicable):

- Commercial General Liability of \$1 million per occurrence and \$2 million in the aggregate;
- In the event that you are using a vehicle in business, Commercial Automobile insurance with a limit of not less than \$1 million;
- Excess Liability - \$5 million;
- Must show evidence of Worker’s Compensation & Employer’s Liability insurance at State statutory limits;
- Must show evidence of Disability insurance coverage at State statutory limits;

NYS Urban Development Corporation d/b/a Empire State Development (ESD) must be named as additional insured on a primary and non-contributory basis on all of the following policies: Commercial General Liability and Auto Liability. All policies above should include a waiver of subrogation in favor of ESD.

### **xiii. W-9 Form**

Provide a completed W-9 form (<https://www.irs.gov/pub/irs-pdf/fw9.pdf>), submit with proposal.

## **Appendices**

Appendix A - Site File

Appendix B - Phase 1 Environmental Site Assessment

Appendix C - Cost Letter

Appendix D - Diversity Practices Questionnaire

Appendix E - IT Security Brief (Review Purposes)