



**Empire State
Development**

REQUEST FOR PROPOSALS

**“FRONTIER TOWN” SITE
ESSEX COUNTY, NY**

RFP RELEASE DATE:
May 22, 2017

SITE TOUR DATE:
June 7, 2017

DEADLINE TO
SUBMIT QUESTIONS:
**June 14, 2017
5:00 PM**

DEADLINE TO
SUBMIT PROPOSALS:
**July 28, 2017
12:00 PM**



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I. INTRODUCTION

New York State Urban Development Corporation, d/b/a Empire State Development (“ESD”), on behalf of the Town of North Hudson, Essex County, and the New York State Department of Environmental Conservation (“DEC”), collectively the “Project Sponsors,” is seeking proposals to establish a world-class tourism destination at the base of the Adirondack Mountains (“Project”).

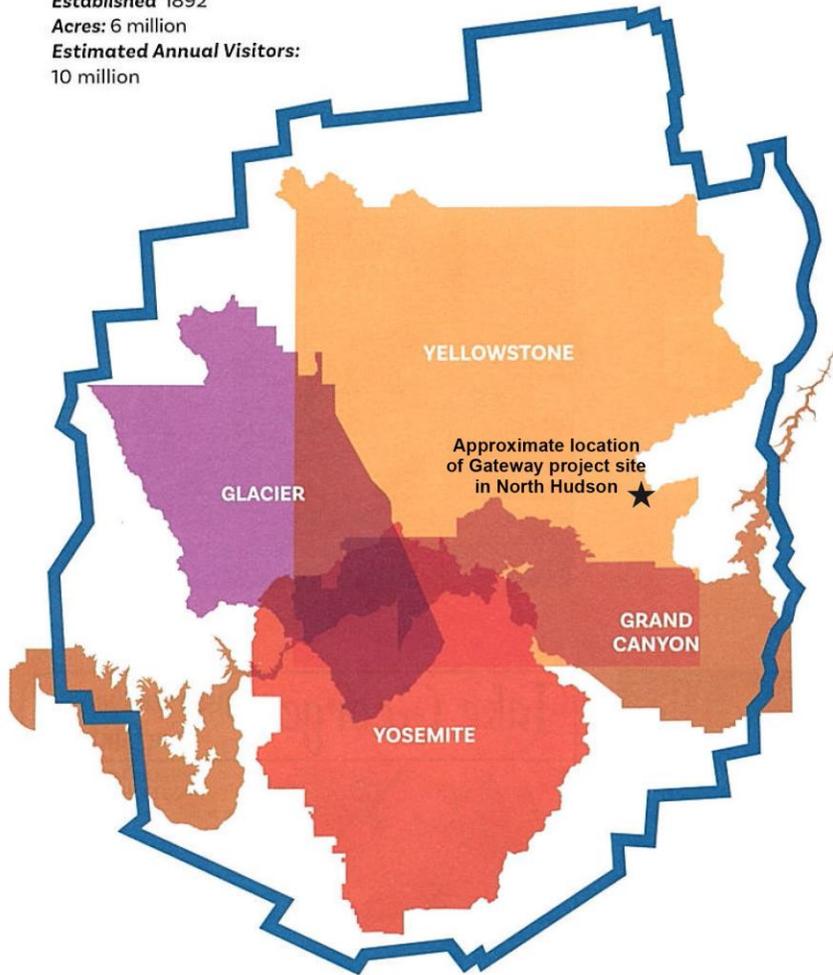
The Project location is at New York’s former Frontier Town theme park in the town of North Hudson, NY (“Site”). This destination will serve as a “gateway” to the Adirondack Park, the largest park in the contiguous United States. The park contains six million acres, covers one-fifth of New York State and is equal in size to neighboring Vermont. The Adirondack Park is nearly three times the size of Yellowstone National Park.

ADIRONDACK PARK

Established 1892

Acres: 6 million

Estimated Annual Visitors:
10 million



ACADIA, Maine
Est. 1919
Acres: 49,000
Annual Visitors: 2.6 million

BRYCE, Utah
Est. 1928
Acres: 36,000
Annual Visitors: 1.4 million

DEATH VALLEY, California
Est. 1994
Acres: 3.4 million
Annual Visitors: 1.1 million

DENALI, Alaska
Est. 1917
Acres: 4.7 million
Annual Visitors: 530,000

EVERGLADES, Florida
Est. 1947
Acres: 1.5 million
Annual Visitors: 1.1 million

GLACIER, Montana
Est. 1910
Acres: 1 million
Annual Visitors: 2.3 million

GRAND CANYON, Arizona
Est. 1919
Acres: 1.2 million
Annual Visitors: 4.7 million

GREAT SMOKIES,
Tennessee and North Carolina
Est. 1934
Acres: 522,000
Annual Visitors: 10 million

YELLOWSTONE,
Montana, Wyoming and Idaho
Est. 1872
Acres: 2.2 million
Annual Visitors: 3.5 million

YOSEMITE, California
Est. 1890
Acres: 760,000
Annual Visitors: 3.9 million

ZION, Utah
Est. 1919
Acres: 147,000
Annual Visitors: 3.2 million

In January 2017, Governor Andrew M. Cuomo announced the completion of a conceptual master plan to establish a “Gateway to the Adirondacks” (“Master Plan”) that will attract new visitors to the Adirondack Park and drive economic growth in New York State (“State”) and the North Country, particularly in the “5 Towns”: North Hudson, Newcomb, Indian Lake, Long Lake, and Minerva.

In March 2017, ESD released a Request for Expressions of Interest (“RFEI”) to solicit ideas for public-private partnership opportunities at the Site, linking the concepts and principles proposed in the Master Plan with viable models for the development, operation and management of an outdoor recreational facility and supporting uses. ESD has used responses and recommendations generated by the RFEI to inform this Request for Proposals (“RFP”).

Each party that submits a response (“Proposal”) to this RFP is referred to herein as a “Respondent.” A Respondent who is conditionally designated through this RFP process is referred to herein as a “Designated Developer.”

II. RFP SCHEDULE

The following are significant dates under the RFP process:

Event	Timeline
Release of RFP	May 22, 2017
Site Tour	June 7, 2017
Deadline for Submission of Questions	June 14, 2017 @ 5PM EST
Deadline for Project Sponsors to Respond to Questions	June 28, 2017
Proposal Due Date	July 28, 2017 @ 12PM EST
Interviews (if necessary)	August 2017
Announcement of Successful Respondent	September 2017

The Project Sponsors reserve 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 posted with this RFP on ESD’s website:

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

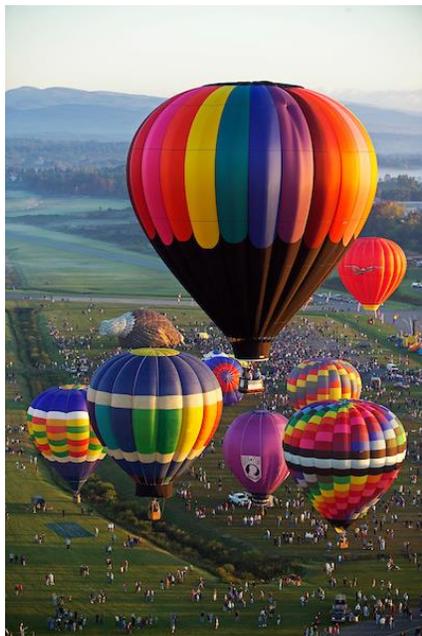
III. SITE DESCRIPTION

Site History & Context

Located at the base of the Adirondacks in the Town of North Hudson, Essex County, the Site represents a premier point of access into the Adirondack Park, which encompasses the largest publicly protected area in the contiguous United States. The Site is approximately 100 miles north of Albany and 120 miles south of Montreal, and spans approximately 288 acres of land, including approximately 1.5 miles of the Schroon River.



The Frontier Town theme park opened in 1952 and included attractions such as a Pioneer Village, Prairie Junction, an Indian Village, a rodeo arena, and a narrow gauge railroad. At its peak, the Wild West themed park employed 350 people and was a significant driver for the economies of North Hudson and the surrounding area. The theme park was in operation until 1998.



Today, tourism is a substantial and growing component of the New York economy. In the Adirondacks region, a destination within a day's drive of nearly 85 million people, tourism is a \$1.3 billion industry, supporting 21,172 jobs and generating 19% of total employment as of 2015.

According to the Essex County Leisure Travel Study, visitors to Essex County in 2014 were increasingly family groups and overwhelmingly seeking to participate in outdoor activities. The average stay was four nights, with 81% of surveyed visitors reporting trips between the months of May and October.

A 2015 Wild Center study focusing on the Adirondacks found that surveyed respondents born between 1981 and 2000 sought regional travel experiences that not only included outdoor activities, but also placed increasing emphasis on leisure, local culture and food attractions. As 37% of surveyed respondents were parents, visitors were additionally attentive to the impact of nature-based tourism on their children.

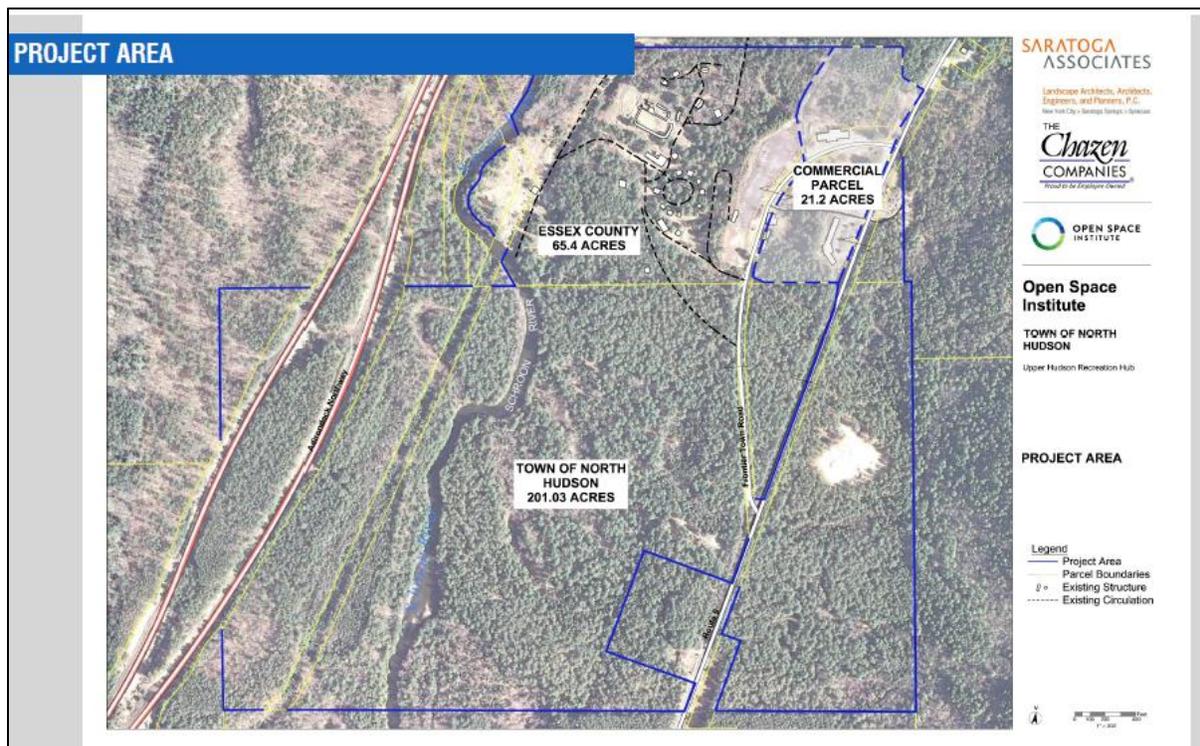
The Site that is the subject of this RFP represents an exceptional opportunity to respond to these visitor needs and offer a diversity of unique, authentic experiences that will serve as the new Gateway to the Adirondacks.

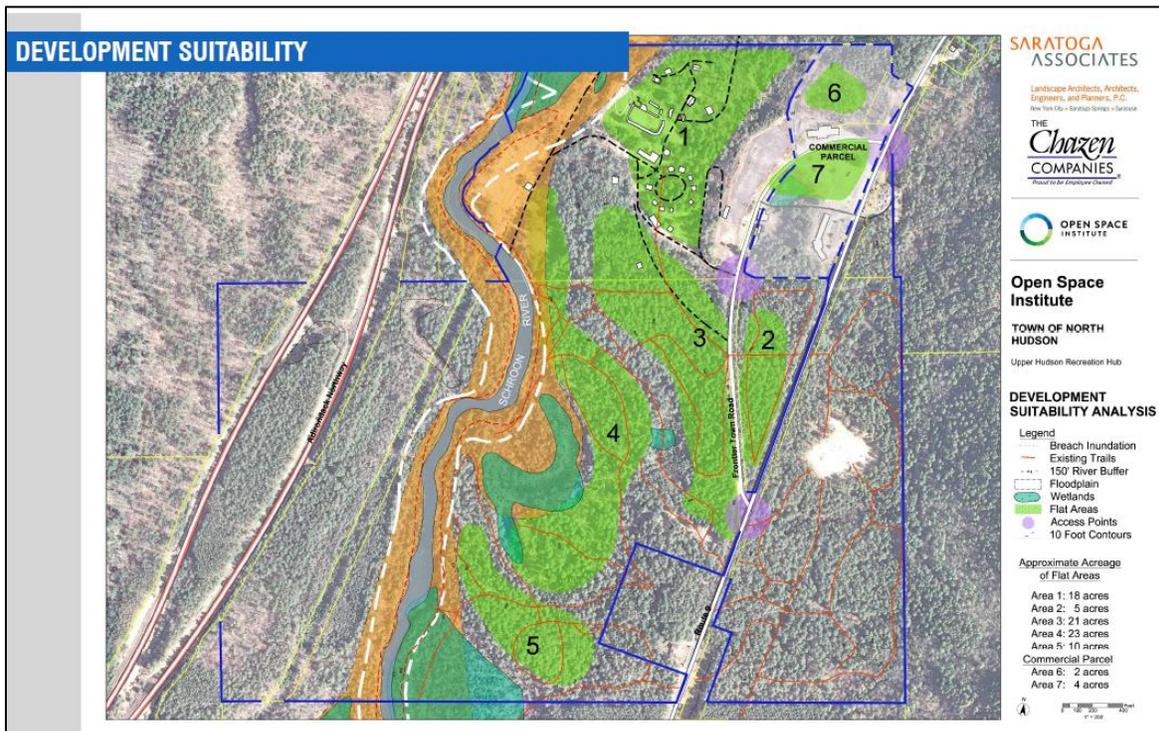
Project Specifics

Consistent with the concepts identified in the Master Plan, a Designated Developer is anticipated to, in partnership with the State, create a recreational and hospitality experience that enhances economic activity. It should also highlight the natural offerings of the region and serve as a launching off point for the exploration of the Adirondack Park.



While this RFP seeks proposals that address recreational uses across the entire Site, development opportunity at the Site is concentrated at the northeastern area of the Site along Route 9. It is DEC's intent to provide public access to recreational opportunities by constructing a public campground, equestrian camping facilities and day use areas for public access and recreation. However, operation of these facilities could be incorporated into a larger development plan for the entire site.





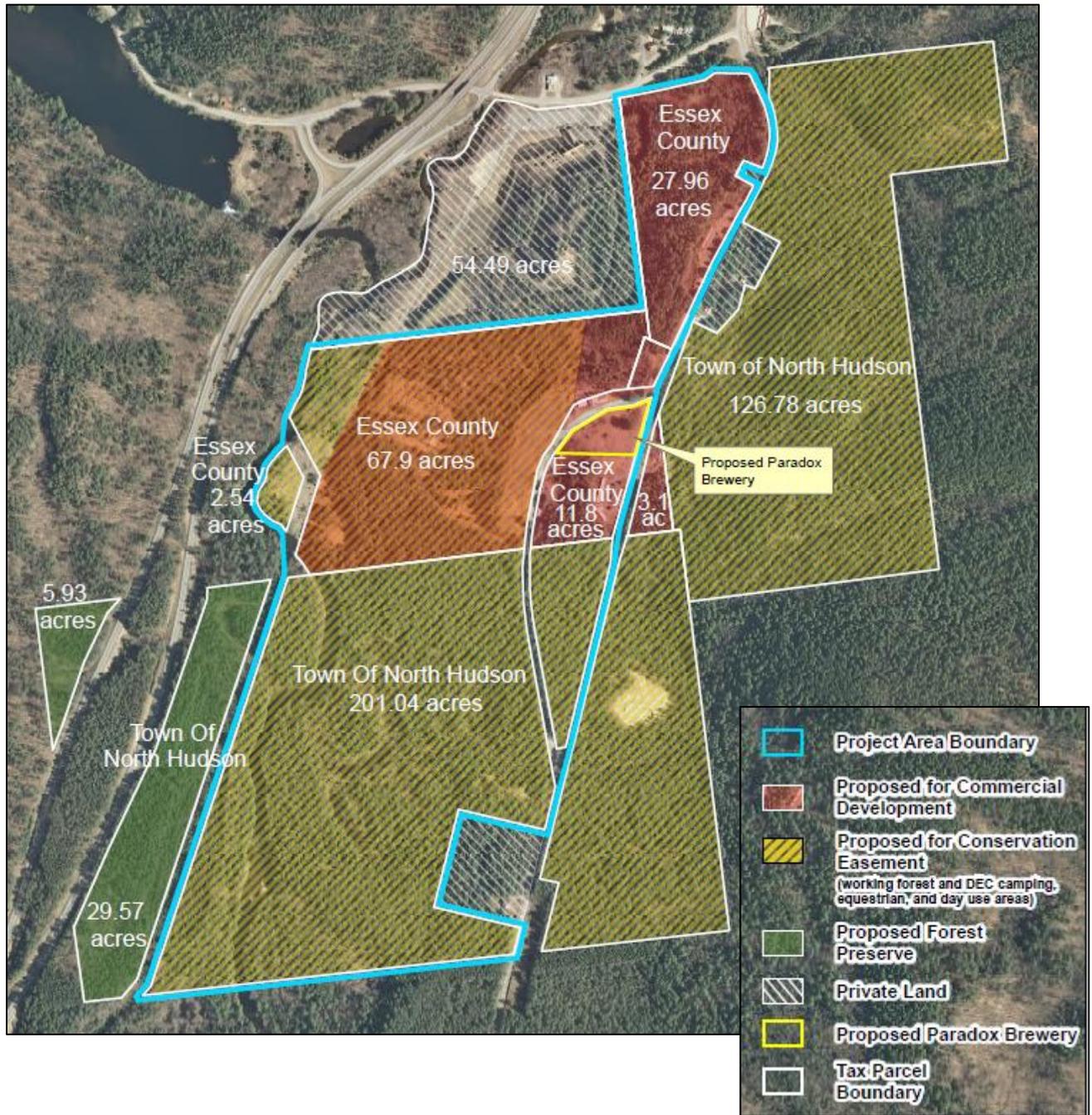
Please refer to **Appendix A** to view a larger version of these maps.

Respondents are invited to propose development plans that unify traditional recreational opportunities at the Site, such as boating, camping, equestrian trails and other uses considered within the Master Plan, with commercial concepts, such as lodging and hospitality, that will bring iconic amenities to visitors. Proposals should maximize the development opportunity at the Site while showcasing local resources and businesses, encouraging environmental sustainability and preservation, and providing a welcoming, authentic experience for visitors to the Adirondacks.

The primary area for commercial development is located along Route 9 and identified in red on the map on page 9. This area will complement a \$13 million investment that the State is making to support public access to outdoor recreation at the Site, as part of an initial contribution to a public-private partnership.

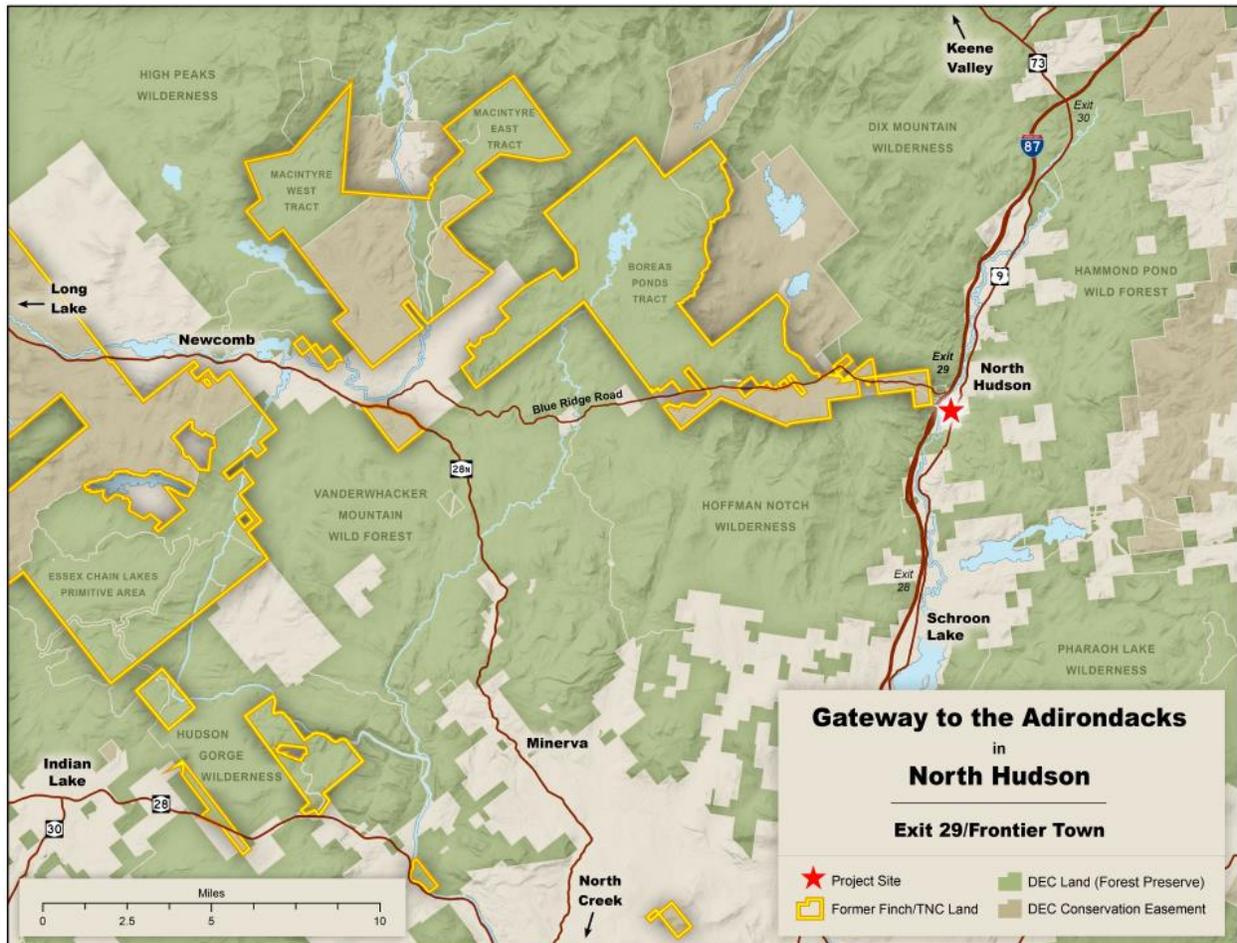
The following is a map of the Site and relevant Site boundaries. Should Respondents believe that expanding the boundaries of the Site would benefit the proposed Project, Respondents should incorporate as an option in their Proposal parcels that are adjacent or related to the Site. In such case, the Respondent should describe its plan to acquire such additional parcels, or rights in such parcels sufficient to accomplish Respondent's Proposal, or indicate whether the Respondent would seek the assistance of the Project Sponsors in assembling the site. The

Project Sponsors will consider whether such parcels may be necessary or beneficial to effectuate the Project on a case-by-case basis.



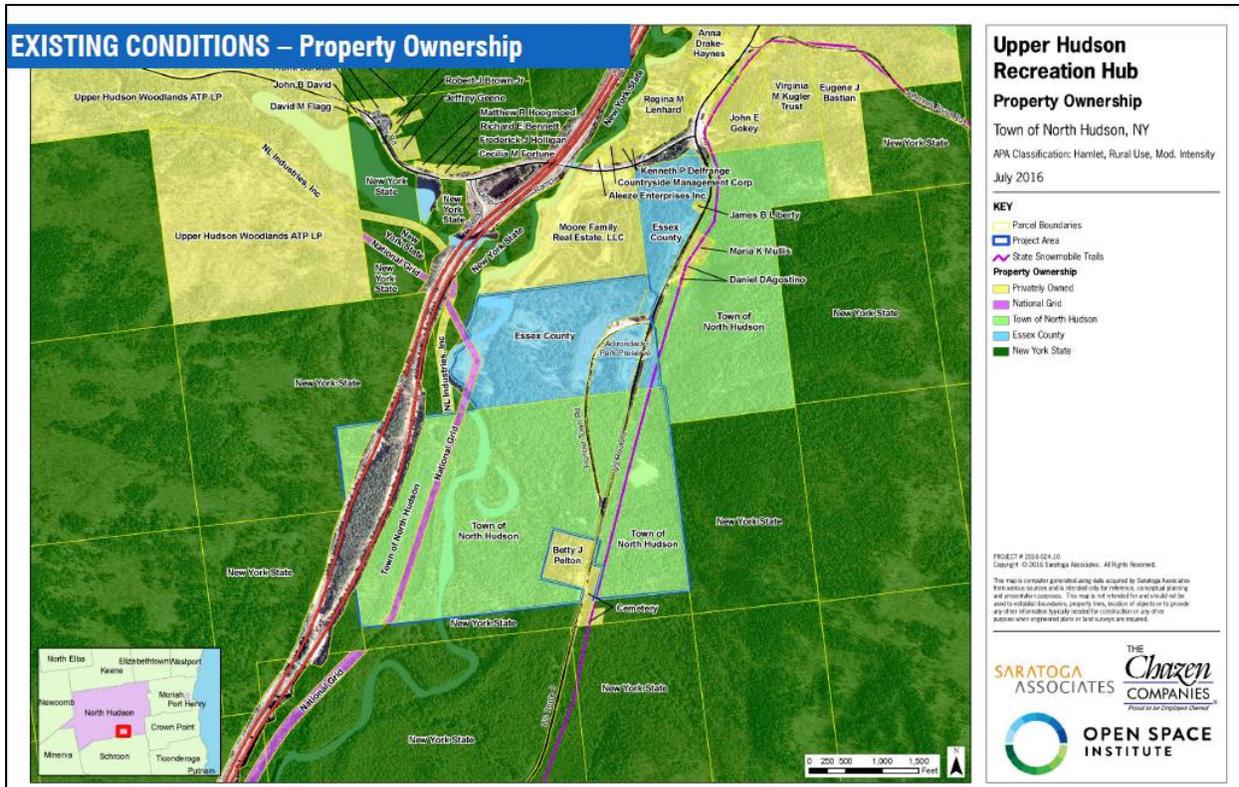
Transportation

The Site is located immediately off Exit 29 of the Northway, at the confluence of the Blue Ridge Road and Route 9. The Blue Ridge Road is an all-season road that travels through thousands of acres of Adirondack Forest Preserve and conservation easement lands, including the recently acquired Boreas Ponds property that is currently accessible to the public. This route also provides quick and easy access to the towns of Newcomb, Minerva, Long Lake, and Indian Lake. Route 9 links North Hudson to Schroon Lake, and the Route 9 State Bike Route will be part of the new Empire State Trail, creating the largest state multi-use trail in the nation.



Ownership

Currently the Site is owned respectively by the Town of North Hudson and Essex County. The portion of the Site currently owned by the Town of North Hudson is expected to be transferred to Essex County prior to development of the Site. A portion of the Site may be subject to a conservation easement to be acquired by DEC for the purposes of developing recreational facilities.



Please refer to **Appendix A** to view a larger version of this map.

Utilities

The Site was previously served by individual sewer and water systems for past uses. Development will include utilization of existing wells and sewer systems if feasible, or the development of new systems for one or more uses. Use of renewable energy sources is encouraged.

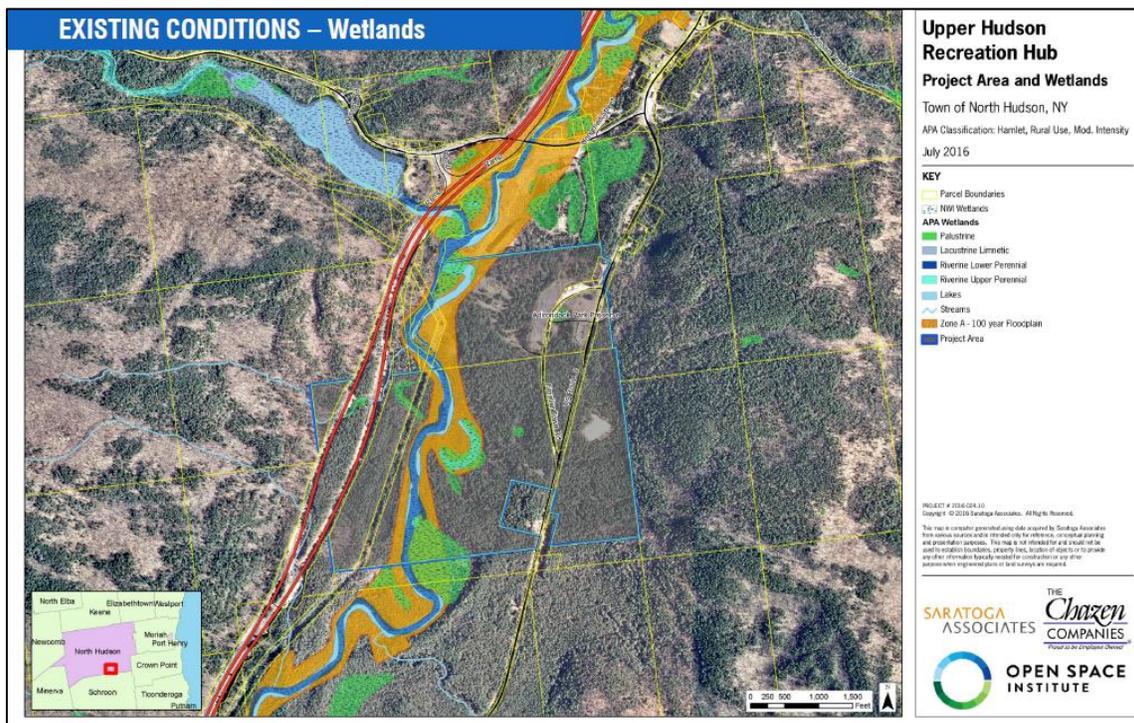
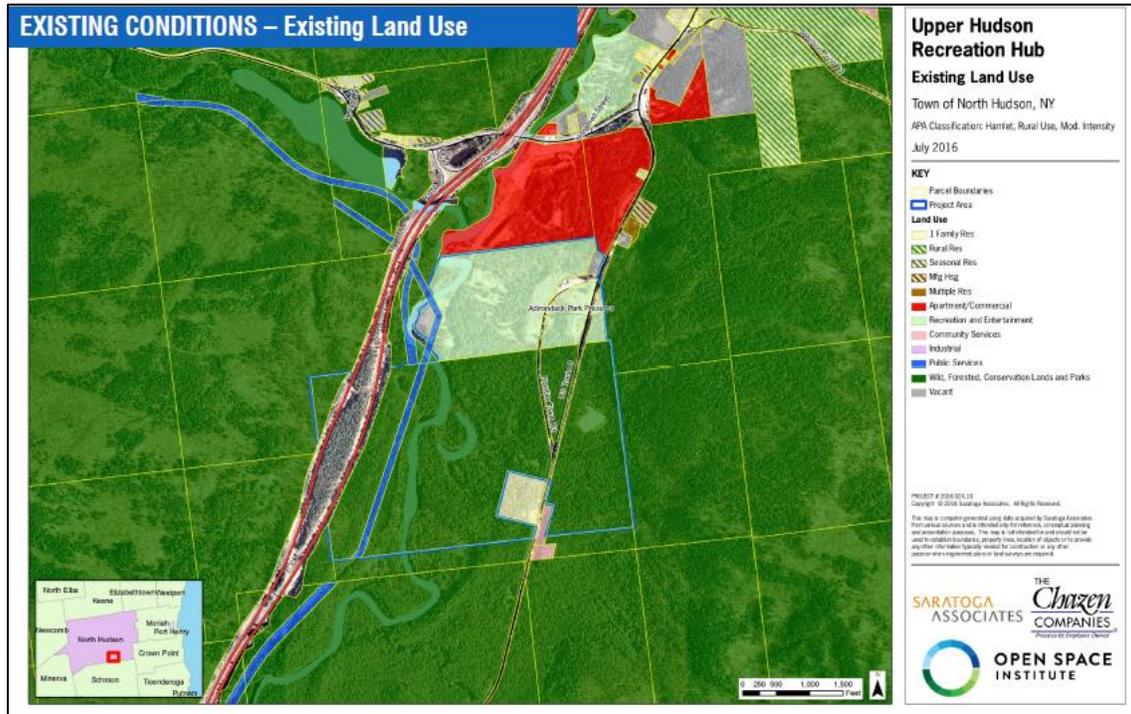
Zoning and Land Use

The portion of the Site owned by the Town of North Hudson is generally classified as municipal parkland. Its current land use is Wild, Forested, Conservation Lands and Parks. The portion of the Site owned by Essex County is generally classified as resort complex. Its current land use is for Recreation and Entertainment. Please refer to the Master Plan in **Appendix A** for more detail. As described above, portions of the Site may be subject to a DEC conservation easement.

Environmental Conditions

The Site includes trails, wetlands, flatland, and acreage along the Schroom River within the 100-year floodplain. The Schroom River along this site is classified as a Recreational River pursuant to the Wild, Scenic and Recreational Rivers Act. Please refer to the Master Plan in **Appendix A** for more detail. Please note that the wetlands depicted are preliminary estimations; a Phase II Site Investigation that includes topographical and environmental surveying is currently underway on the portion of the Site expected to be subject to a DEC conservation

easement, and expected to conclude in Summer 2017. Development may be subject to verification of jurisdiction and permitting of both the Adirondack Park Agency (“APA”) and Department of Environmental Conservation (“DEC”).



Please refer to **Appendix A** to view a larger version of these maps.

IV. OBJECTIVES

Proposals should strive to address the following development objectives (“Objectives”):

- Enhance the Site as an economic engine for the North Country and the State;
- Serve as a “Gateway to the Adirondacks” and launching off point for the Adirondack Park;
- Provide a world-class recreational destination in keeping with the principles outlined in the Master Plan;
- Create a family-oriented complex that provides multi-generational amenities;
- Enhance and complement the State’s proposed development to provide recreational access;
- Preserve and complement the Site’s natural beauty and resources; and
- Feature meaningful participation of Minority Business Enterprises, Women Business Enterprises and Service-Disabled Veteran-Owned-Businesses, per Article 15A of the New York State Executive Law.



V. REQUIRED PROPOSAL CONTENTS

The following are the submission requirements for all Proposals. The Project Sponsors reserve the right, in their sole discretion, to reject any Proposal that is deemed incomplete or unresponsive to the RFP requirements. The Project Sponsors also reserve the right, in their sole discretion, to reject any and all Proposals for any reason or for no reason, and to proceed (or not proceed) with the development of the Site (either by itself or in conjunction with one or more third-party(ies)) without completing this RFP process.

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

Proposals should be no longer than 30 pages of text.

Respondents to this RFP must submit Proposals which include the following information:

A. Respondent Description

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

- The intended form and structure of the Respondent and any proposed partnership or joint venture must be clearly explained. A chart/diagram of the Respondent firm showing structure (percentages) of ownership and investment must be included.
- Name, address, phone number and email of each member of the Respondent or development team. Respondents must provide the Federal EIN numbers of the development entity and identify a primary contact person.
- Current operating budget and previous three (3) years of audited financials for all entities with an ownership percentage in the Proposal.
- A copy of the most recent credit report for key members of the Respondent firm.
- Documentation addressing whether the Respondent, or any participating member of the team, has been involved in any litigation or legal dispute regarding a real estate venture during the past five (5) years.
- Evidence of ability to finance the Project including letters of interest and/or intent from equity sources and lenders.
- Any additional documentation or information evidencing the strength of the Respondent and its ability to complete the Project in a timely manner.
- Disclosure of any existing or contemplated relationship with any other person or entity, including relationships with any parent, subsidiary or affiliated firm, which would constitute an actual or potential conflict of interest in connection with Respondents' Proposal or selection as the Designated Developer and completing the project. Respondents must also indicate how they will notify ESD if a conflict arises at any point after the submission of this Response, and how such a conflict would be resolved.

B. Team Member Qualifications

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

- Identification and qualifications of each member of the development team, including all persons or entities that will design, develop, or operate the Project, as well as the attorney, engineer, general contractor and other professionals, as appropriate, including leasing and management, who will be involved with this Project. Provide evidence of qualifications as appropriate, e.g. licenses and/or certifications to practice.
- A description of similar projects undertaken by the members of the Respondent's team.
- A summary of the availability of each of the principal members of each firm and their availability for commitment to the Project.
- Documentation addressing whether any participating team members have been involved in litigation or legal dispute regarding a real estate venture during the past five years.
- Background information of the Respondent firm, including resumes describing the relevant experience of all principal members. This information must be submitted for every participant in a joint venture and should highlight similar projects (including a project description and approximate dollar value for each).

C. Project Description

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

- The proposed use(s).
- Type, bulk and size of each component of the development program (gross and net square footages).
- Description of the proposed uses, a list of potential tenants and any letters of interest and/or intent from potential tenants.
- Projected jobs (full-time equivalents) and average annual salaries that would be generated by the proposed Project, both during the design & construction phase, and during stabilized operations (i.e., in the first three [3] years of operation).
- Include specific supporting data to indicate how the Project will contribute to the economic benefit of the community (i.e., net new jobs, tax revenues, spending, and economic activity).
- The description should address how this project will advance the objectives set forth in **Section VI. SELECTION CRITERIA** below, including how Respondent intends to attract visitors and spur economic activity in the area.
- A summary of anticipated construction, financing and environmental challenges and how they will be addressed.
- If the Proposal includes parcels adjacent or related to the Site, include a description of the plan to acquire such additional parcels, or rights in such parcels sufficient to accomplish Respondent's Proposal, or indicate whether the Respondent would seek the assistance of the Project Sponsors in assembling the site.

D. Site Plan and Architectural Design

Each entity submitting a Proposal must provide the following:

- An overall conceptual site plan (to scale), indicating, where applicable, proposed building footprints, internal site access (internal drives, walkways, etc.) and proposed frontage improvements (sidewalks, landscaping, sidewalk uses/patios, etc.), as well as the relationship of these site elements to components in adjoining street rights-of-way and to existing buildings/structures/site components on adjacent parcels.
- A description of sustainable building practices that will be incorporated into the project during construction/renovation and operation of the improvements.
- A description of which Site buildings will be preserved, as well as any significant proposed building modifications or enhancements.
- A description of the preservation plan. Identify preservation consultants and include narrative description of design approach. If proposal involves any demolition or substantial alteration to contributing structures, describe program design and economic rationale for doing so as well as proposed measures or design concepts to address the effect on the resource(s).

E. Development Timeframe

The Designated Developer is expected, barring delays outside of the control of the Designated Developer, to commence operations of the Project to the public no later than one year after its date of selection under this RFP.

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

F. Financial Plan

Respondent must submit sufficient evidence that the proposed redevelopment and operation of the Site will be successfully accomplished by the Respondent and achieve the Development Objectives (“Financial Plan”).

The Financial Plan should include the anticipated sources and uses, amounts, terms and conditions of financing including any proposed revenue sharing, and the Respondent’s equity to be employed in the transaction. It must also include the Respondent’s official offer to develop and operate the Site. Respondents interested in including adjacent or related properties as part of its Project should detail the impact of this additional property in the Financial Plan.

The Financial Plan must include detailed pro-forma financial projections, with supporting calculations, that include the following information:

- Estimated costs associated with capital improvements and investments
- Projected operating revenues
- Projected operating and maintenance expenses and net operating income
- Estimates on local property tax payments and/or payments in lieu of taxes (PILOTs) to various public jurisdictions
- Debt service payments on any short-term or long-term financing for improvements
- Projected or targeted internal rate of return (IRR)

- Sources and amounts of financing and proposers' equity to be invested in the development and operation of the Site
- Evidence of financing consistent with sources and uses, including but not limited to: expressions of interest from lenders, letters of credit, and performance bonding capacity

The State plans to invest approximately \$13 million to support public access to outdoor recreation at the Site.

However, the Financial Plan may identify funding “gaps” if the Project fails to achieve a reasonable rate of return for Respondents. In the event of a projected “gap”, the Financial Plan may suggest potential options to address such gap for consideration by the Project Sponsors.

G. Land Use and Zoning Description

Respondent must describe the general approach to land use and zoning.

H. Flood Zones

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

I. Administrative Proposal

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, Respondents 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. [State Finance Law §§139-j and 139-k forms](#), submit with proposal
- ii. [Vendor Responsibility Questionnaire](#), submit with proposal or submit online (and include copy of submitted form with proposal)
- iii. Iran Divestment Act Statement, submit with proposal
- iv. Non-Discrimination and Contractor & Supplier Diversity Requirements, submit with proposal
 - o [OCSD-1 - MWBE Participation / EEO Policy Statement](#)
 - o [OCSD-2 - Staffing Plan](#)
 - o [OCSD-4 - MWBE Utilization Plan](#)
- v. [Encouraging the Use of NYS Businesses in Contract Performance Form](#), submit with proposal
- vi. [SDVOB Utilization Plan](#), submit with proposal
- vii. Certification under State Tax Law Section 5-a [220-CA](#) or [Affidavit](#), submit with proposal
- viii. [W-9 Form](#), submit with proposal

Additional information about these items, and ESD's procurement requirements, can be found in **Section XI. CONTRACTUAL REQUIREMENTS**.

VI. SELECTION CRITERIA

The Project Sponsors invite Respondents to submit Proposals that maximize the economic benefit to the Town of North Hudson, the “5 Towns” region, Essex County, the North Country, and the State, through reuse and redevelopment of the Site in ways that maximize the creation of new jobs and the stimulation of the local economy.

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

Criteria		Weighting
Development Concept	<ul style="list-style-type: none"> Quality of proposal, design, sustainable building practices and adaptive reuse, and overall impact of the project on the environment 	25%
Qualifications and Feasibility	<ul style="list-style-type: none"> Respondent’s experience developing and operating comparable projects Respondent’s financial strength as indicated by the materials provided in the submission 	25%
Financial Offer	<ul style="list-style-type: none"> Provision of competitive terms to develop and operate the Site 	25%
Community and Economic Benefit	<ul style="list-style-type: none"> Projected expenditures, construction costs, annual operating costs and other direct spending that will help spur economic activity. ESD will also consider the impact of indirect spending that the Project will generate and any applicable tax revenue. Creation of construction and permanent on-site jobs and payroll. Indirect job creation through on-site job training programs may also be considered. 	10%
Schedule and Timing	<ul style="list-style-type: none"> Proven ability and commitment to complete the Project in a timely manner. 	10%
MWBE/SDVOB	<ul style="list-style-type: none"> Evidence of commitment to meet requirements outlined in Section XI. CONTRACTUAL REQUIREMENTS and inclusion of MWBE and SDVOB partners in the Respondent’s team 	5%

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

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

Proposals may be reviewed by the Project Sponsors and other State officials. Any agreement resulting from this RFP may be subject to various approvals, as required under applicable law and regulation, which may include approval of the ESD Directors, the Commissioner of General Services, the Public Authorities Control Board (“PACB”), the Comptroller of the State of New York, and the New York State Attorney General.

VII. DEVELOPER DUE DILIGENCE

Respondents should assume that the Site, including land, improvements, and any supporting building infrastructure, would be disposed of “AS IS” and “WHERE IS” without representation, warranty, or guaranty as to quantity, quality, title, character, condition, size, or kind, or that the same is in condition or fit to be used for the Respondent’s purpose.

ESD will post information regarding the RFP on the ESD website (<http://www.esd.ny.gov/CorporateInformation/RFPs.html>). Respondents must check the website, and are strongly encouraged to do so frequently, to ensure they are aware of all updates associated with this solicitation. ESD will also undertake, but does not guarantee, to provide such updates to Prospective Respondents who notify ESD of their interest as soon as possible by sending an email to: frontiertownRFP@esd.ny.gov. The Project Sponsors make no representation or warranty concerning the accuracy or utility of information posted or otherwise provided to the potential Respondents or to the Respondents.

Respondents must rely solely on their own independent research and investigations for all matters, including, costs, title, survey, development, financing, construction, and remediation, and shall not rely on the information provided in connection with this RFP.

VIII. SUBMISSION OF PROPOSALS

A. Proposal Submission

Five (5) hard copies and one (1) electronic copy in the form of a flash drive of the Proposal identified by “Frontier Town RFP” must be received by Project Sponsors by **July 28, 2017 at 12:00 PM** at the following address:

Empire State Development
633 Third Avenue, 35th Floor
New York, NY 10017-8167
Attn: Hector Morel, ESD Procurement Unit
Re: Frontier Town RFP

Late submissions will not be accepted. The Project Sponsors reserve the right, in their sole discretion, to withdraw or modify this RFP and to reject any proposal as being non-responsive.

B. RFP Inquiries

Questions or requests for clarification regarding the RFP should be submitted via email in accordance with the schedule in **Section II. RFP SCHEDULE** to: frontiertownRFP@esd.ny.gov

Written questions must include the requestor’s name, e-mail address and the Respondent represented. 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.

No contact related to this solicitation with the Project Sponsors, including staff, board members, or consultants, other than emails to the designated email account for the solicitation at frontiertownRFP@esd.ny.gov will be allowed by Respondents or employed representatives of Respondent team members during the procurement period of this RFP.

C. Site Visit

An optional site visit is scheduled for **June 7, 2017**. Respondents are not required to attend and must RSVP frontiertownRFP@esd.ny.gov on or before **June 5, 2017 at 5:00 PM** if they wish to participate. When responding, please provide the name of the firm, and the name, title, telephone number and email address of all representatives who are attending.

Due to security and logistics reasons, we ask that no more than five people per responding team attend the tour. The Project Sponsors reserve the right to limit the number of visitors on such site visit and to require such procedures as necessary to ensure the safety and security of visitors.

IX. PROCESS

After a review of the Proposals, the Project Sponsors intend to conditionally designate one of the Respondents as the Designated Developer. The Designated Developer will enter into a Development Agreement with the Project Sponsors to develop and operate the Site.

In order to implement the Project, ESD, with the cooperation of the Designated Developer, must comply, as needed, with legal and regulatory requirements such as: (i) SEQRA and its implementing regulations; (ii) The New York State Historic Preservation Act; (iii) the New York State Coastal Zone Management Policies; (iv) New York State Public Authorities Law; (v) New York State Finance Law; and (vi) the New York State Urban Development Corporation Act (the "UDC Act"); and all other application laws and regulations. Certain approvals and compliance may be required prior to execution of any agreements relating to the Site under this RFP, certain compliance under these and other regulations may be on-going.

X. GENERAL PROVISIONS

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

- amend, modify, or withdraw this RFP;
- revise any requirement of this RFP;
- require supplemental statements or information from any responsible party;
- accept or reject any or all Proposals in part or in whole;
- extend the deadline for submission of Proposals;
- negotiate potential contract terms with any Respondent;
- communicate with any Respondent to correct and/or clarify responses which do not conform to the instructions contained herein;
- 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;
- 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 the preparation of responses hereto or otherwise. All costs associated with responding to this RFP will be at the sole cost and expense of the responding party.

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, all 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 or a portion of the materials and information, and the ideas and suggestions therein, submitted in response to this solicitation (collectively, the "Response Information") for any purpose and whether or not the Respondent is selected. 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. CONTRACTUAL REQUIREMENTS

This section contains additional information about the forms that are required to be included in each Respondent's submission pursuant to Section VI of this RFP, as well as information about ESD's procurement requirements.

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

State Finance Law Sections 139-j and 139-k (collectively, the "Procurement Requirements") apply to this RFP. These Procurement Requirements: (1) govern permissible communications between potential Respondents and ESD or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP. Compliance with the Procurement Requirements requires that all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the "Restricted Period"), be conducted only with the designated contact persons listed below; the completion by Respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer's Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the 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 Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer's Affirmation of Understanding and Agreement pursuant to State Finance Law as part of their submittal. Copies of these forms are available at:

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

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. 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.

ii. 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 or go directly to the Vend-Rep system online at <https://portal.osc.state.ny.us>. 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.

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) 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).”

iii. 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."

The list in question is maintained by the Office of General Services. For further information and to view this list please go to: <http://www.ogs.ny.gov/about/reqs/ida.asp>

iv. Non-Discrimination and Contractor & Supplier Diversity Requirements **CONTRACTOR REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY NEW YORK STATE-CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN**

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations ESD is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of ESD contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, ESD hereby establishes an overall goal of 30% for MWBE participation, based on the current availability of MBEs and WBEs. A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFP, the respondent agrees that ESD may withhold payment pursuant to any Contract awarded as a result of this RFP pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how ESD will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal.

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFP, such finding constitutes a breach of contract and ESD may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting the Office of Contractor and Supplier Diversity (“OCSD”) at OCSD@esd.ny.gov.

Additionally, a Respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

- A. An MWBE Utilization Plan with their bid or proposal. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to ESD for review and approval.

ESD will review the submitted MWBE Utilization Plan and advise the respondent of ESD acceptance or issue a notice of deficiency within 30 days of receipt.

- B. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to OCSD at

OCSD@esd.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

ESD may disqualify a respondent as being non-responsive under the following circumstances:

- a) If a respondent fails to submit an MWBE Utilization Plan;
- b) If a respondent fails to submit a written remedy to a notice of deficiency;
- c) If a respondent fails to submit a request for waiver; or
- d) If ESD determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to ESD, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all of the terms and conditions [**SCHEDULE B - PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES**](#). The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the respondent, undertake or continue 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, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, form OCSD-1, to ESD with its bid or proposal.

If awarded a Contract, respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by ESD on a quarterly basis during the term of the Contract.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and subcontractors will 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.

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:

http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_1MWBEEEOPolicyStatement.pdf

Form OCSD-2: http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_2StaffingPlan.pdf

Form OCSD-4:

http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_4MWBEUtilizationPlan.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.

Diversity Practices

ESD has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Respondents is practical, feasible, and appropriate. Accordingly, Respondents shall be required to include as part of their response to this procurement the Diversity Practices Questionnaire (See Appendix B).

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. ESD recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of ESD contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Respondents are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Contract Goals

- A. ESD hereby establishes an overall goal of 3% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Respondent/Contractor should reference the directory of New York State Certified SDVOBs found at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf. Questions regarding compliance with SDVOB participation goals should be directed to the Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at

518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.

- B. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract.

SDVOB Utilization Plan

- A. In accordance with 9 NYCRR § 252.2(i), Respondents are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid (https://esd.ny.gov/sites/default/files/SDVOB_100_Utilization_Plan.pdf).
- B. The Utilization Plan shall list the SDVOBs that the Respondent intends to use to perform the Contract, a description of the work that the Respondent intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Respondent acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to ESD.
- C. ESD will review the submitted SDVOB Utilization Plan and advise the Respondent/Contractor of ESD acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Respondent/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Respondent/Contractor and direct the Respondent/Contractor to submit, within five business days of notification by ESD, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- E. ESD may disqualify a Respondent's bid or proposal as being non-responsive under the following circumstances:
 - (a) If a Respondent fails to submit an SDVOB Utilization Plan;
 - (b) If a Respondent fails to submit a written remedy to a notice of deficiency;
 - (c) If a Respondent fails to submit a request for waiver; or
 - (d) If ESD determines that the Respondent has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.

- G. Contractor further agrees that a failure to use SDVOBs as agreed in the 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 Contractor non-responsibility.

Request for Waiver

A. Prior to submission of a request for a partial or total waiver, Respondent/Contractor shall speak to the Designated Contacts at ESD for guidance.

B. In accordance with 9 NYCRR § 252.2(m), a Respondent/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Respondent may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by ESD at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Respondent's/Contractor's waiver request is complete, ESD shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.

D. If ESD, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, ESD may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to OCSD@esd.ny.gov.

Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Respondents/Contractors' solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by ESD with certified SDVOBs whom ESD determined were capable of fulfilling the SDVOB goals set in the Contract.
- (4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.

(5) Other information deemed relevant to the waiver request.

Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to ESD during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 available on the ESD website and should be completed by the Contractor and submitted to ESD, by the 10th day of each month during the term of the Contract, for the preceding month's activity to: OCSD@esd.ny.gov.

Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

ALL FORMS ARE AVAILABLE AT: <http://ogs.ny.gov/Core/SDVOBA.asp>

v. 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/ENCOURAGINGUSEOFNEWYORKSTATEBUSINESSINCONTRACTPERFORMANCE.pdf>.

vi. 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), or an affidavit (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.

vii. 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_0.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.

viii. 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.

ix. 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;
- 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.

x. W-9 Form

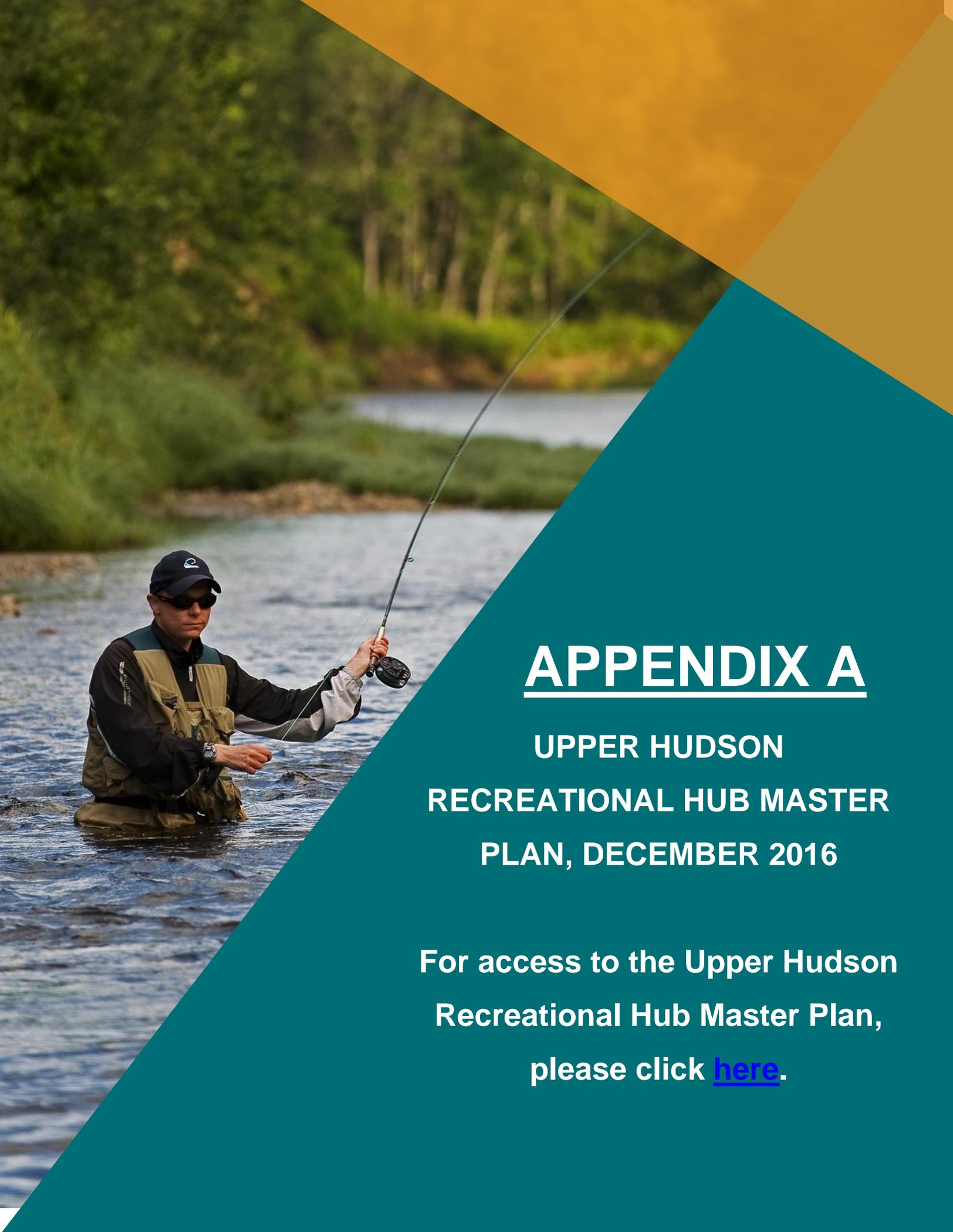
Provide a completed W-9 form (<https://www.irs.gov/pub/irs-pdf/fw9.pdf>), submit with proposal.

XIII. APPENDIX

Below is a list of appendices attached to and made a part of this RFP:

Appendix A: Master Plan

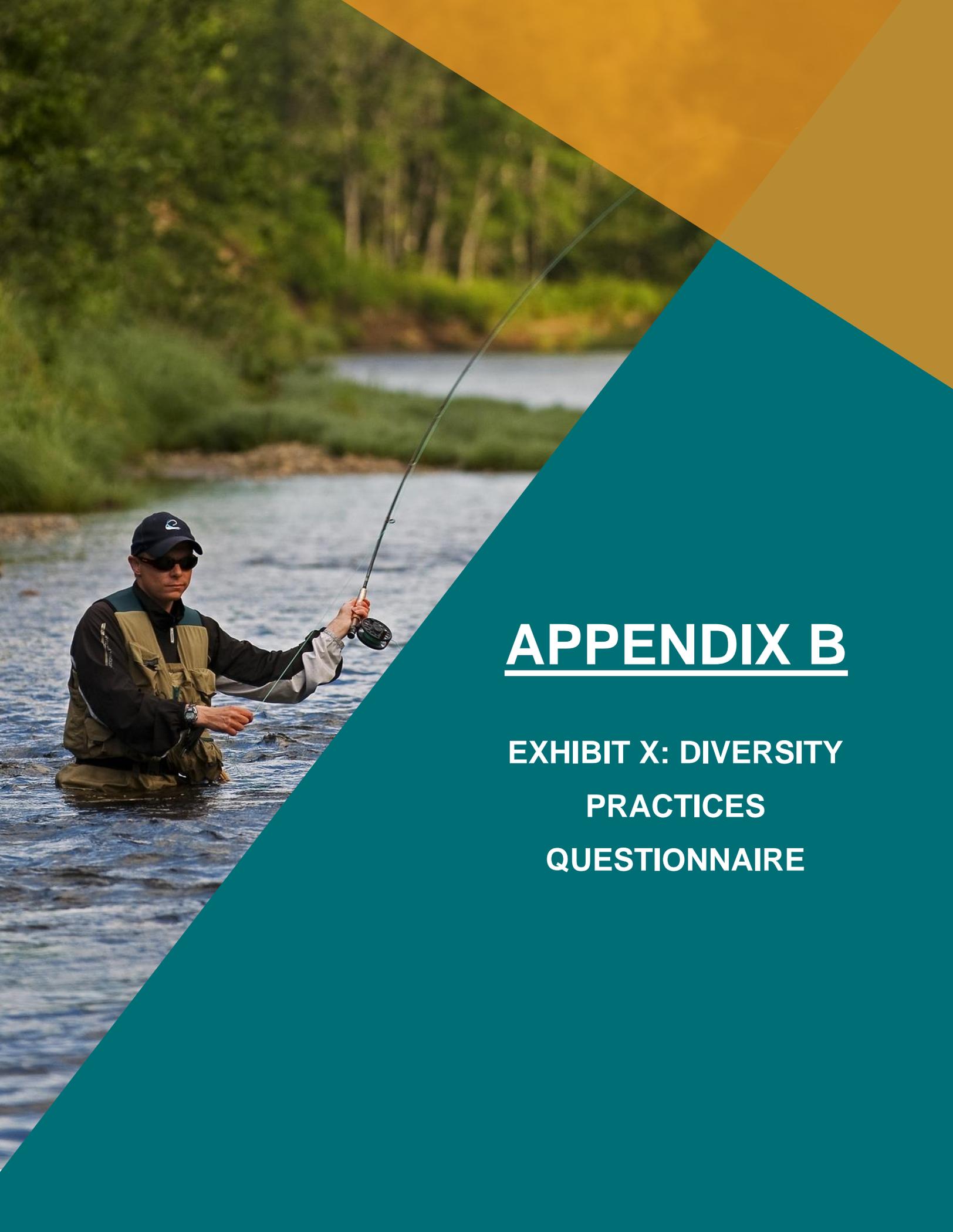
Appendix B: Exhibit X: Diversity Practices Questionnaire



APPENDIX A

UPPER HUDSON RECREATIONAL HUB MASTER PLAN, DECEMBER 2016

For access to the Upper Hudson
Recreational Hub Master Plan,
please click [here](#).



APPENDIX B

EXHIBIT X: DIVERSITY PRACTICES QUESTIONNAIRE



**EXHIBIT X
DIVERSITY PRACTICES QUESTIONNAIRE**

I, _____, as _____ (title) of _____ firm or company (hereafter referred to as the company), swear and/or affirm under penalty of perjury that the answers submitted to the following questions are complete and accurate to the best of my knowledge:

1. Does your company have a Chief Diversity Officer or other individual who is tasked with supplier diversity initiatives? Yes or No

If Yes, provide the name, title, description of duties, and evidence of initiatives performed by this individual or individuals.

2. What percentage of your company's gross revenues (from your prior fiscal year) was paid to New York State certified minority and/or women-owned business enterprises as subcontractors, suppliers, joint-venturers, partners or other similar arrangement for the provision of goods or services to your company's clients or customers?

3. What percentage of your company's overhead (i.e. those expenditures that are not directly related to the provision of goods or services to your company's clients or customers) or non-contract-related expenses (from your prior fiscal year) was paid to New York State certified minority- and women-owned business enterprises as suppliers/contractors?¹

¹ Do not include onsite project overhead.



4. Does your company provide technical training² to minority- and women-owned business enterprises? Yes or No

If Yes, provide a description of such training which should include, but not be limited to, the date the program was initiated, the names and the number of minority- and women-owned business enterprises participating in such training, the number of years such training has been offered and the number of hours per year for which such training occurs.

5. Is your company participating in a government approved minority- and women-owned business enterprise mentor-protégé program?

If Yes, identify the governmental mentoring program in which your company participates and provide evidence demonstrating the extent of your company's commitment to the governmental mentoring program.

6. Does your company include specific quantitative goals for the utilization of minority- and women-owned business enterprises in its non-government procurements? Yes or No

² Technical training is the process of teaching employees how to more accurately and thoroughly perform the technical components of their jobs. Training can include technology applications, products, sales and service tactics, and more. Technical skills are job-specific as opposed to soft skills, which are transferable.



If Yes, provide a description of such non-government procurements (including time period, goal, scope and dollar amount) and indicate the percentage of the goals that were attained.

7. Does your company have a formal minority- and women-owned business enterprise supplier diversity program? Yes or No

If Yes, provide documentation of program activities and a copy of policy or program materials.

8. Does your company plan to enter into partnering or subcontracting agreements with New York State certified minority- and women-owned business enterprises if selected as the successful respondent? Yes or No

If Yes, complete the attached Utilization Plan



All information provided in connection with the questionnaire is subject to audit and any fraudulent statements are subject to criminal prosecution and debarment.

Signature of
Owner/Official

Printed Name of
Signatory

Title

Name of Business

Address

City, State, Zip



STATE OF _____

COUNTY OF _____) ss:

On the ____ day of _____, 201_, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to this certification and said person executed this instrument.

Notary Public



**Empire State
Development**