

County of Albany

112 State Street
Albany, NY 12207



Meeting Agenda

Thursday, October 29, 2020

6:00 PM

Held Remotely

Audit and Finance Committee

PREVIOUS BUSINESS:

1. APPROVING PREVIOUS MEETING MINUTES
2. AUTHORIZING A ONE-TIME AMNESTY PERIOD FOR REDUCTION OF INTEREST CHARGED ON DELINQUENT PROPERTY TAXES
3. AMENDED AND RESTATED BOND RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING OF A CAPITAL PROJECT FOR THE EMERGENCY 911 COMMUNICATIONS CENTER, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$10,000,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$9,000,000 OF SERIAL BONDS OF SAID COUNTY TO FINANCE SAID APPROPRIATION
4. ADOPTING A GENERAL FUND BALANCE POLICY FOR ALBANY COUNTY
5. RESCINDING RESOLUTION NO. 217 FOR 2019

CURRENT BUSINESS:

6. AMENDING THE 2020 SHERIFF'S OFFICE BUDGET: ADMINISTRATIVE ADJUSTMENTS
7. AMENDING THE 2020 DISTRICT ATTORNEY'S OFFICE BUDGET: ADMINISTRATIVE ADJUSTMENTS
8. AUTHORIZING AN AGREEMENT WITH HODGSON RUSS, LLP REGARDING BOND COUNSEL SERVICES
9. AUTHORIZING AN AGREEMENT WITH BTS & CO. CPA, LLP. FOR INDEPENDENT AUDITING SERVICES
10. AUTHORIZING AN AGREEMENT WITH M & T BANK FOR BANKING SERVICES

11. AUTHORIZING THE ISSUANCE OF UP TO \$40,000,000 AGGREGATE PRINCIPAL AMOUNT OF TAX ANTICIPATION NOTES, PURSUANT TO THE LOCAL FINANCE LAW, IN ANTICIPATION OF THE COLLECTION OF REAL ESTATE TAXES TO BE LEVIED IN AND FOR THE COUNTY IN ITS 2021 FISCAL YEAR
12. AMENDING THE 2020 WATER PURIFICATION DISTRICT BUDGET: NEGATIVE LINES
13. AMENDING THE 2020 DEPARTMENT OF MENTAL HEALTH BUDGET: OVERTIME
14. AMENDING THE 2020 DEPARTMENT OF MENTAL HEALTH BUDGET: FEES FOR SERVICES
15. AUTHORIZING THE CANCELLATION OF UNENFORCEABLE DELINQUENT REAL PROPERTY TAX LIENS ON 99 CEDARVIEW LANE IN THE TOWN OF COLONIE AND CHARGE BACK OF THE AMOUNTS CREDITED IN CONNECTION WITH THEM
16. RESCINDING THE AUTHORIZATION TO CONVEY REAL PROPERTY PURSUANT TO RESOLUTION NO. 69 FOR 2020 AND AUTHORIZING THE CONVEYANCE OF 19 CANAL STREET (TAX MAP NO. 32.8-4-1) IN THE TOWN OF COLONIE
17. RESCINDING THE AUTHORIZATION TO CONVEY REAL PROPERTY PURSUANT TO RESOLUTION NO. 399 FOR 2019 AND AUTHORIZING THE CONVEYANCE OF 461 FIRST STREET (TAX MAP NO. 65.47-3-29) IN THE CITY OF ALBANY
18. RESCINDING THE AUTHORIZATION TO CONVEY REAL PROPERTY PURSUANT TO RESOLUTION NO. 399 FOR 2019 AND AUTHORIZING THE CONVEYANCE OF 468 NORTH PEARL STREET (TAX MAP NO. 62.52-1-16) IN THE CITY OF ALBANY
19. RESCINDING THE AUTHORIZATION TO CONVEY REAL PROPERTY PURSUANT TO RESOLUTION NO. 29 FOR 2019 AND AUTHORIZING THE CONVEYANCE OF 117 CLINTON AVENUE (TAX MAP NO. 76.72-2-83) LOCATED IN THE CITY OF ALBANY

- 20. AUTHORIZING THE CONVEYANCE OF VARIOUS PARCELS OF REAL PROPERTY TO THE ALBANY COUNTY LAND BANK CORPORATION
- 21. DESIGNATING THE ALBANY COUNTY CONVENTION AND VISITORS BUREAU, INC. AS ALBANY COUNTY'S TOURIST PROMOTION AGENCY TO RECEIVE TOURISM, ADVERTISING AND PROMOTION GRANTS
- 22. AUTHORIZING THE PURCHASE OF REAL PROPERTY LOCATED AT 60 TRINITY LANE (TAX MAP NO. 129.-2-21) IN THE TOWN OF COEYMANS
- 23. AUTHORIZING A PAYMENT IN LIEU OF TAXES (PILOT) AGREEMENT WITH BEAVER DAM SOLAR 1, LLC. REGARDING REAL PROPERTY LOCATED AT 275 BEAVER DAM ROAD (TAX MAP NO. 121.00-3-24.2) IN THE TOWN OF BETHLEHEM
- 24. AMENDING RESOLUTION NO. 269 FOR 2020

County of Albany

112 State Street
Albany, NY 12207



Meeting Minutes

Thursday, October 1, 2020

5:30 PM

Held Remotely

Audit and Finance Committee

PREVIOUS BUSINESS:

Present: Legislator Wanda F. Willingham, Legislator Matthew T. Peter, William M. Clay, Raymond F. Joyce, David B. Mayo, Joseph E. O'Brien, Lynne Lekakis, Mark E. Grimm and Paul J. Burgdorf

1. APPROVING PREVIOUS MEETING MINUTES

A motion was made that the previous meeting minutes be approved. The motion carried by a unanimous vote.

2. AUTHORIZING A ONE-TIME AMNESTY PERIOD FOR REDUCTION OF INTEREST CHARGED ON DELINQUENT PROPERTY TAXES

A motion was made to table this proposal by the Sponsor. The motion carried by a unanimous vote.

3. AMENDED AND RESTATED BOND RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING OF A CAPITAL PROJECT FOR THE EMERGENCY 911 COMMUNICATIONS CENTER, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$10,000,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$9,000,000 OF SERIAL BONDS OF SAID COUNTY TO FINANCE SAID APPROPRIATION

A motion was made that this proposal be tabled by Committee. The motion carried by a unanimous vote.

4. AUTHORIZING AN AGREEMENT WITH BRAWN MEDIA REGARDING MEDIA AND CONSULTING SERVICES FOR THE SHAKER PLACE REHABILITATION AND NURSING CENTER

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

5. REQUESTING THE COUNTY EXECUTIVE AND COUNTY ATTORNEY TO NEGOTIATE WITH SHORT-TERM RENTAL SERVICES AND ONLINE REMARKETERS FOR THE PURPOSES OF COLLECTING THE HOTEL OCCUPANCY TAX

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

CURRENT BUSINESS:

6. AMENDING THE 2020 DEPARTMENT OF AUDIT AND CONTROL BUDGET: ADMINISTRATIVE ADJUSTMENTS

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

7. AMENDING THE 2020 CORONER'S OFFICE BUDGET: MEDICAL SERVICES

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

8. AMENDING THE 2020 BOARD OF ELECTIONS BUDGET: ADMINISTRATIVE ADJUSTMENTS

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

9. AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION AND AN AGREEMENT WITH THE NEW YORK STATE BOARD OF ELECTIONS FOR THE NEW YORK STATE ELECTIONS CYBERSECURITY REMEDIATION GRANT PROGRAM AND AMENDING THE 2020 BOARD OF ELECTIONS BUDGET

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

10. AMENDING THE 2020 DEPARTMENT OF PUBLIC WORKS BUDGET: BRIDGE INSPECTION FEES, REPAIRS TO THE ALBANY COUNTY RAIL TRAIL AND THE COUNTY ROUTE 9 SLOPE REPAIR PROJECT

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

11. AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE A LICENSE AGREEMENT WITH STEWART'S SHOPS CORP. TO CONTINUE THE USE OF PROPERTY AT 309 DELAWARE AVENUE IN THE TOWN OF DELMAR

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

- 12. AUTHORIZING AGREEMENTS WITH THE NEW YORK STATE DIVISION HOMELAND SECURITY AND EMERGENCY SERVICES REGARDING THE STATE HOMELAND SECURITY PROGRAM AND THE SECURITY AND LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM**

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

- 13. AMENDING RESOLUTION NO. 393 FOR 1995 REGARDING A TAX SEARCH FEE**

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

- 14. A TAX ANTICIPATION NOTE RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK (THE "COUNTY") DATED OCTOBER 13, 2020, A RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$16,800,000 AGGREGATE PRINCIPAL AMOUNT OF TAX ANTICIPATION NOTES, PURSUANT TO THE LOCAL FINANCE LAW, IN ANTICIPATION OF THE COLLECTION OF REAL ESTATE TAXES LEVIED IN AND FOR THE COUNTY IN ITS 2020 FISCAL YEAR**

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

- 15. ADOPTING A GENERAL FUND BALANCE POLICY FOR ALBANY COUNTY**

A motion was made that this proposal be tabled by Committee. The motion carried by a unanimous vote.

- 16. AMENDING RESOLUTION NO. 272 FOR 2020 REGARDING THE CONVEYANCE REAL PROPERTY LOCATED AT 268 STARR ROAD (TAX MAP NO. 155.-1-57) IN THE TOWN OF COEYMANS**

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

- 17. AMENDING RESOLUTION NO. 324 FOR 2020 REGARDING THE CONVEYANCE OF REAL PROPERTY LOCATED AT 4 LINE ROAD (TAX MAP NO. 78.-1-17) IN THE TOWN OF KNOX**

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

- 18. AMENDING RESOLUTION NO. 325 FOR 2020 REGARDING THE CONVEYANCE OF REAL PROPERTY LOCATED AT 2607 2ND AVENUE (TAX MAP NO. 32.8-3-9.1) IN THE TOWN OF COLONIE**

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

- 19. AMENDING RESOLUTION NO. 326 FOR 2020 REGARDING THE CONVEYANCE OF REAL PROPERTY LOCATED AT 3068 NEW SCOTLAND ROAD (TAX MAP NO. 93.-2-31) IN THE TOWN OF NEW SCOTLAND**

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

- 20. AMENDING RESOLUTION NO. 327 FOR 2020 REGARDING THE CONVEYANCE OF REAL PROPERTY LOCATED AT 95 MORRIS ROAD (TAX MAP NO. 16.4-4-4.2) IN THE TOWN OF COLONIE**

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

- 21. AMENDING RESOLUTION NO. 303 FOR 2020 REGARDING COVID-19 FUNDING**

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

RESOLUTION NO. 216

AUTHORIZING A ONE-TIME AMNESTY PERIOD FOR REDUCTION OF INTEREST CHARGED ON DELINQUENT PROPERTY TAXES

Introduced: 6/8/20
By Mr. Commisso:

WHEREAS, The ongoing coronavirus pandemic has greatly impacted the expected revenues for the 2020 Fiscal Year for the County of Albany, which are necessary in order to maintain the functions and services of government that many rely upon, and

WHEREAS, In an effort to reduce the budget deficit facing Albany County, this Honorable Body has proposed to offer a one-time amnesty period to provide taxpayers a brief 90 day period to clear past-due taxes at a lowered interest rate, and

WHEREAS, During the proposed amnesty period, intended to motivate payments, the interest rate on unpaid delinquent taxes will be reduced by half from 1% added per month to .5% added, and

WHEREAS, There is proposed a handling fee of \$100 per property for all properties in which more than \$1,000 is owed in taxes, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to implement a one-time amnesty period from August 1, 2020 to October 31, 2020 for the reduction of interest charged on delinquent property taxes, and, be it further

RESOLVED, That the County Attorney is authorized to approve as to form and content agreements and documents necessary for the implementation of the aforementioned amnesty program, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.



ALBANY COUNTY SHERIFF'S OFFICE

County Court House Albany, New York 12207 (518) 487-5400
WWW.ALBANYCOUNTYSHERIFF.COM



MICHAEL S. MONTELEONE
EXECUTIVE UNDERSHERIFF

CRAIG D. APPLE, SR.
SHERIFF

WILLIAM M. RICE
UNDERSHERIFF

SHAWN P. NOONAN
CHIEF DEPUTY

LEON A. BORMANN
CHIEF DEPUTY

July 2, 2020

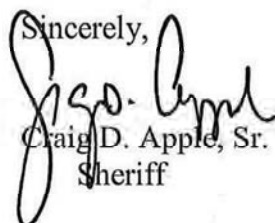
Honorable Andrew Joyce
Legislative Clerk's Office
112 State Street, Room 710
Albany, New York 12207

Andrew
Dear Mr. Joyce:

The attached correspondence is forwarded for presentation to the Albany County Legislature.

Legislative approval is requested to amend the 2020 Capital Plan and resolution numbers 527 of 2017, resolution 97 and resolution 513 of 2019. We are requesting to change the location of our E911 Communications Center from the Albany County Nursing Home to the Clarksville Public Safety Building. This move will encompass the Clarksville Public Safety Building to undergo an addition that was previously scheduled for the Albany County Nursing Home. Resolution numbers 527, 97 and 513 will need to be amended to reflect the new location as it pertains to bonding.

Should there be any questions, do not hesitate to call.

Sincerely,

Craig D. Apple, Sr.
Sheriff

cc: Hon. Daniel P. McCoy, County Executive
Hon. William Clay, Public Safety Chairman
Hon. Wanda Willingham, Audit & Finance
Brandon Russell, Esq., Majority Counsel
Hon. Arnis Zilgme, Esq., Minority Counsel

REQUEST FOR LEGISLATIVE ACTION

FOR COUNSEL USE ONLY	
DATE:	_____
RECEIVED:	_____
RECEIVED BY:	_____
METHOD:	<u>HAND</u> _____
	<u>COURIER</u> _____
	<u>MAIL</u> _____

DATE : JULY 2, 2020

DEPARTMENT: ALBANY COUNTY SHERIFF'S DEPT

CONTACT PERSON: CRAIG D. APPLE SR

TELEPHONE: 487-5438

DEPT. REPRESENTATIVE ATTENDING COMMITTEE MEETING: _____

PURPOSE OF REQUEST:

- ADOPTION OF LOCAL LAW _____
- AMENDMENT OF PRIOR LEGISLATION X
- APPROVAL/ADOPTION OF PLAN/PROCEDURE X
- BOND APPROVAL _____
- BUDGET AMENDMENT(SEE BELOW) _____
- CONTRACT AUTHORIZATION (SEE BELOW) _____
- ENVIRONMENTAL IMPACT _____
- HOME RULE REQUEST _____
- PROPERTY CONVEYANCE _____
- OTHER:(STATE BRIEFLY IF NOT LISTED ABOVE) _____

LEGISLATIVE APPROVAL IS NEEDED TO CHANGE THE LOCATION OF THE E-911 COMMUNICATIONS CENTER MOVE FROM THE NURSING HOME TO CLARKSVILLE BY AMENDING THE 2020 CAPITAL PLAN AND AMENDING RES. 527 (2017) AND RES. 97 AND 513 (2019)

CONCERNING BUDGET AMENDMENTS

STATE THE FOLLOWING

INCREASE ACCOUNT/LINE NO. _____
SOURCE OF FUNDS: _____
TITLE CHANGE: _____

CONCERNING CONTRACT AUTHORIZATION,

STATE THE FOLLOWING:

TYPE OF CONTRACT

- CHANGE ORDER/CONTRACT AMENDMENT _____
- PURCHASE (EQUIPMENT/ SUPPLIES) _____
- LEASE (EQUIPMENT/SUPPLIES) _____
- REQUIREMENTS _____
- PROFESSIONAL SERVICES _____
- EDUCATIONAL/TRAINING _____
- GRANT: **NEW** _____
- RENEWAL** _____
- SUBMISSION DEADLINE DATE** _____
- SETTLEMENT OF A CLAIM _____
- RELEASE OF LIABILITY _____
- OTHER: (STATE BRIEFLY) _____

CONCERNING CONTRACT AUTHORIZATION (CONT'D)

STATE THE FOLLOWING:

CONTRACT TERMS/CONDITIONS:

PARTY (NAME/ADDRESS):

AMOUNT/RATE SCHEDULE/FEE:

TERM:

SCOPE OF SERVICES:

CONTRACT FUNDING:

ANTICIPATED IN CURRENT BUDGET: YES _____ NO _____

FUNDING SOURCE: _____

COUNTY BUDGET ACCOUNTS: _____

REVENUE: _____

APPROPRIATION: _____

BOND(RES. NO. & DATE OF ADOPTION) _____

CONCERNING ALL REQUESTS:

MANDATED PROGRAM/SERVICE: YES _____ NO

IF MANDATED CITE: AUTHORITY _____

ANTICIPATED IN CURRENT ADOPTED BUDGET: YES _____ NO

IF YES, INDICATE REVENUE APPROPRIATION ACCOUNTS: _____

FISCAL IMPACT - FUNDING: _____ (DOLLARS OR PERCENTAGES)

FEDERAL _____

STATE _____

COUNTY _____ **100%**

TERM/LENGTH OF FUNDING _____

PREVIOUS REQUESTS FOR IDENTICAL OR SIMILAR ACTION:

RESOLUTION/LAW NUMBER: 97 OF 2019

DATE OF ADOPTION: 3/11/2019

JUSTIFICATION: (STATE BRIEFLY WHY LEGISLATIVE ACTION IS REQUESTED)

THE ALBANY COUNTY SHERIFF'S OFFICE RESPECTFULLY REQUESTS LEGISLATIVE APPROVAL TO CHANGE THE LOCATION OF OUR E-911 COMMUNICATIONS CENTER MOVE FROM THE NURSING HOME TO THE CLARKSVILLE PULICE SAFETY BUILDING. THIS WILL REQUIRE THE PUBLIC SAFETY BUILDING TO UNDERGO AN ADDITION THAT WAS PREVIOUSLY SCHEDULED FOR THE NURSING HOME. RESOLUTIONS 527 (2017), AND RES. 97 AND 513 (2019) NEED TO BE AMENDED TO REFLECT THE NEW LOCATION AS IT PERTAINS TO BONDING.

BACK-UP MATERIAL SUBMITTED (I.E. APPLICATION/APPROVAL NOTICES FROM FUNDING SOURCE, BID TABULATION SHEET, CIVIL SERVICE APPROVAL NOTICE, PROGRAM ANNOUNCEMENT, CONTRACTS AND/OR ANY MATERIALS WHICH EXPLAIN OR SUPPORT THE REQUEST FOR LEGISLATIVE ACTION.)

SEE ATTACHED LETTER

SUBMITTED BY: CRAIG D APPLE SR
TITLE: SHERIFF

RESOLUTION NO. 513

BOND RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING OF A CAPITAL PROJECT FOR THE ALBANY COUNTY SHERIFF'S OFFICE PUBLIC SAFETY BUILDING AND THE EMERGENCY 911 COMMUNICATIONS CENTER, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$2,500,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$2,500,000 OF SERIAL BONDS OF SAID COUNTY TO FINANCE SAID APPROPRIATION

Introduced: 11/12/19

By Audit and Finance Committee:

THE COUNTY LEGISLATURE OF THE COUNTY OF ALBANY, NEW YORK, HEREBY RESOLVES AS FOLLOWS:

Section 1. The County of Albany, New York (the "County") is hereby authorized to undertake a capital project for the Albany County Sheriff's Office Public Safety Building located at 58 Verda Avenue in the Hamlet of Clarksville in the Town of New Scotland consisting of the reconstruction and renovation of the interior of the building to maximize space and upgrade the technology and electrical systems, including any necessary site work and the acquisition and installation of furnishings, equipment, machinery and apparatus for the foregoing purposes, together with the preparation of planning, engineering and feasibility studies and review, as further described in the 2020 Capital Plan in the County's 2020-2024 Capital Program, as amended and supplemented (hereinafter referred to as the "Capital Program"). The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and the financing thereof (including costs relating to the issuance of the obligations authorized by this resolution), is an amount not to exceed \$1,500,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of an amount not to exceed \$1,500,000 of serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in such series and amounts as may be necessary to pay the cost thereof, but in no event in excess of \$1,500,000 to pay the costs of the capital project.

The period of probable usefulness of the specific object or purpose herein authorized and for which \$1,500,000 of said serial bonds are herein authorized to be issued, within the limitations of Section 11.00a.12(a)(1) of the New York Local Finance Law (the "Law"), is twenty-five (25) years.

Section 2. The County is hereby authorized to undertake a capital project at the Albany County Nursing Home consisting of the design, demolition, renovation, construction modifications, relocation, and installation of existing communications equipment as well as the purchase of additional communications equipment,

1.5 million
CLARKVILLE

including any necessary site work and the acquisition and installation of furnishings, equipment, machinery and apparatus for the foregoing purposes, together with the preparation of planning, engineering and feasibility studies and review, as further described in the 2020 Capital Plan in the County's 2020-2024 Capital Program, as amended and supplemented (hereinafter referred to as the "Capital Program"). The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and the financing thereof (including the costs relating to the issuance of the obligations authorized by this resolution), is an amount not to exceed \$1,000,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of an amount not to exceed \$1,000,000 of serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in such series and amounts as may be necessary to pay the cost thereof, but in no event in excess of \$1,000,000 to pay the costs of the capital project.

1 million
E911

The period of probable usefulness of the specific object or purpose herein authorized and for which \$1,000,000 of said serial bonds are herein authorized to be issued, within the limitations of Section 11.00(a)(12)(a)(1) of the New York Local Finance Law (the "Law"), is twenty-five (25) years.

Section 3. Serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in the aggregate principal amount not to exceed \$2,500,000 to finance said appropriation are hereby authorized to be issued pursuant to the provisions of the Law.

Section 4. The following additional matters are hereby determined and stated:

- (a) The facilities described in Sections 1 and 2 above are both class "A" buildings, as defined in Section 11.00(a)(11)(a) of the Law.
- (b) Current funds are not required by the Law to be provided as a down payment prior to the issuance of the serial bonds authorized by this resolution or any bond anticipation notes issued in anticipation thereof in accordance with Section 107.00 of the Law.
- (c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

Section 5. The serial bonds authorized by this resolution and any notes issued in anticipation of the sale of such bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any notes issued in anticipation of said bonds shall be general obligations of the County, payable as to both principal and interest by a general tax upon all the taxable real property within the County without limitation of rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and provision shall be made annually in the budget of the County by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 6. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 23.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 63.00 and Section 164.00 of the Law, the powers and duties of the County Legislature pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the County Comptroller, the chief fiscal officer of the County.

Section 7. The County Comptroller is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution and any notes issued in anticipation thereof, if applicable, as "qualified tax exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

Section 8. The County Comptroller is further authorized to enter into a continuing disclosure undertaking with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

Section 9. Pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the "Regulations" and collectively with the SEQR Act, "SEQRA"), the County must satisfy the requirements contained in SEQRA prior to making a final determination whether to proceed with the above referenced projects.

(a). Based upon an examination of the project and a memorandum from the Albany County Department of Economic Development, Conservation and Planning, the County hereby makes the following determination: The capital project authorized by this resolution described in Section 1 constitutes a "Type II action" pursuant to 6 NYCRR 617.5(c)(1), (2) and (31), and therefore, pursuant to 6 NYCRR 617.6(a)(1)(i), the County has no further responsibilities under SEQRA with respect to the project.

(b) By separate resolution, the County has complied with the provisions of SEQRA with respect to the capital project authorized by this resolution described in Section 2 by issuing a negative declaration determining that the capital project described in this resolution will not have a significant effect on the environment.

Section 10. The County may initially use funds from the General Fund or such other funds that may be available to pay the cost of the specific objects or purposes authorized by this resolution, pursuant to Section 165.10 of the Law. The County then reasonably expects to reimburse such expenditure with the proceeds of the bonds or bond anticipation notes authorized by Section 3 of this resolution. This resolution shall constitute the declaration of the County's "official intent" to reimburse the expenditures authorized by Sections 1 and 2 hereof with the proceeds of the bonds and notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

Section 11. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) (1) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or
- (2) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (b) such obligations are authorized in violation of the provisions of the constitution.

Section 12. This bond resolution shall take effect immediately and the Clerk of the County Legislature is hereby authorized and directed to publish the foregoing resolution in full, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the newspaper(s) designated as the official newspaper(s) of the County for such publication.

On long roll call vote the following members voted in favor: Messrs. Beston, Bullock, Burgdorf, Cahill, Ms. Chapman, Messrs. Clay, Commisso, Crouse, Ms. Cunningham, Messrs. Dawson, Domalewicz, Drake, Ethier, Feeney, Fein, Frainier, Grimm, Hogan, A. Joyce, R. Joyce, Mss. Lekakis, Lockart, Messrs. Mauriello, Mayo, Mss. McKnight, McLean Lane, Messrs. Miller, Peter, Ms. Plotsky, Messrs. Reinhardt, Simpson, Smith, Stevens, Tunny, Ward and Ms. Willingham - 36

Those opposed - 0

Resolution was adopted - 11/12/19

RESOLUTION NO. 316

AMENDED AND RESTATED BOND RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING OF A CAPITAL PROJECT FOR THE EMERGENCY 911 COMMUNICATIONS CENTER, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$10,000,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$9,000,000 OF SERIAL BONDS OF SAID COUNTY TO FINANCE SAID APPROPRIATION

Introduced: 9/14/20

By Audit and Finance Committee:

WHEREAS, on December 18, 2017, the County Legislature of the County of Albany, New York (the "County") adopted Bond Resolution No. 527 of 2017 entitled:

BOND RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING OF A CAPITAL PROJECT FOR THE EMERGENCY 911 COMMUNICATIONS CENTER, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$1,750,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$1,750,000 OF SERIAL BONDS OF SAID COUNTY TO FINANCE SAID APPROPRIATION

("Resolution No. 527"); and

WHEREAS, on the date the County Legislature adopted Resolution No. 527 the estimated maximum cost of the undertaking of the project for 2018 described in Section 1 of Resolution No. 527 (the "Project") was estimated to equal an amount not to exceed \$1,750,000 and the estimated maximum cost to undertake the entire project was estimated to equal an amount not to exceed \$3,500,000 as described in the 2018 Capital Plan in the County's 2018-2022 Capital Program; and

WHEREAS, the County Legislature adopted Resolution No. 527 to authorize the issuance of serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in the aggregate principal amount not to exceed \$1,750,000 to finance the preliminary costs of the Project; and

WHEREAS, on March 11, 2019, the County Legislature adopted Bond Resolution No. 97 of 2019 entitled:

BOND RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING OF A CAPITAL PROJECT FOR THE EMERGENCY 911 COMMUNICATIONS CENTER, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$8,000,000, APPROPRIATING SAID AMOUNT

THEREFOR, AND AUTHORIZING THE ISSUANCE OF
\$8,000,000 OF SERIAL BONDS OF SAID COUNTY TO FINANCE
SAID APPROPRIATION

(“Resolution No. 97”); and

WHEREAS, on the date the County Legislature adopted Resolution No. 97 the estimated maximum cost of the undertaking of the Project for 2019 described in Section 1 of Resolution No. 97 was estimated to equal an amount not to exceed \$8,000,000 and the estimated maximum cost to undertake the entire project was estimated to equal an amount not to exceed \$10,000,000 as described in the amended 2019 Capital Plan in the County’s 2019-2023 Capital Program; and

WHEREAS, the County Legislature adopted Resolution No. 97 to authorize the increase in the estimated maximum cost of the Project and the issuance of serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in the aggregate principal amount not to exceed \$8,000,000 to finance the increased costs of the Project; and

WHEREAS, on November 12, 2019, the County Legislature adopted Bond Resolution No. 513 of 2019 entitled:

AUTHORIZING THE UNDERTAKING OF A CAPITAL PROJECT
FOR THE ALBANY COUNTY SHERIFF’S OFFICE PUBLIC SAFETY
BUILDING AND THE EMERGENCY 911 COMMUNICATIONS
CENTER, STATING THE ESTIMATED MAXIMUM COST
THEREOF IS \$2,500,000, APPROPRIATING SAID AMOUNT
THEREFOR, AND AUTHORIZING THE ISSUANCE OF
\$2,500,000 OF SERIAL BONDS OF SAID COUNTY TO FINANCE
SAID APPROPRIATION

(“Resolution No. 513,” and collectively with Resolution No. 527 and Resolution No. 97, the “Bond Resolution”); and

WHEREAS, on the date the County Legislature adopted Resolution No. 513 the estimated maximum cost of the undertaking of the Project for 2020 described in Section 2 of Resolution No. 513 was estimated to equal an amount not to exceed \$1,000,000 and the estimated maximum cost to undertake the entire project was estimated to equal an amount not to exceed \$10,000,000 as described in the amended 2020 Capital Plan in the County’s 2020-2024 Capital Program; and

WHEREAS, the County Legislature adopted Resolution No. 513 to authorize the issuance of serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in the aggregate principal amount not to exceed \$1,00,000 to finance the remaining additional costs of the Project; and

WHEREAS, since the date of the Bond Resolution, the County Legislature has received additional information which indicates changes in the description of the Project, the estimated maximum cost of the Project and the plan of finance of the Project; and

WHEREAS, Section 32.00 of the New York Local Finance Law requires, among other things, that any bond resolution adopted by the finance board of a municipality contain a statement of the specific object or purpose or the class of objects or purposes for which the obligations to be authorized by such resolution are to be issued and a description of the estimated maximum cost and plan of finance; and

WHEREAS, the County Legislature desires to amend the Bond Resolution for the purpose of consolidating Resolution No. 527, Resolution No. 97, and Resolution No. 513 relating to the Project and revising the statement of the specific object or purpose for which the serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) are authorized by the Bond Resolution, together with the estimated maximum cost and plan of finance;

NOW, THEREFORE, BE IT RESOLVED, by the County Legislature of the County of Albany, New York, as follows:

Section 1. The County of Albany, New York (the “County”) is hereby authorized to undertake a capital project consisting of the relocation, renovation, and modification to existing space and structure, together with new construction for the County’s Emergency 911 Communications Center. The capital project will include design, demolition, renovation, construction modifications, relocation, and installation of existing communications equipment as well as the purchase of additional communications equipment, including any necessary site work and the acquisition and installation of furnishings, equipment, machinery and apparatus for the foregoing purposes, together with the preparation of planning, engineering and feasibility studies and review. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and the financing thereof (including the costs relating to the issuance of the obligations authorized by this resolution), is an amount not to exceed \$10,000,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of an amount not to exceed \$9,000,000 of serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in such series and amounts as may be necessary to pay the cost thereof, but in no event in excess of \$9,000,000 to pay the costs of the capital project. The balance of the costs of the capital project in the amount of \$1,000,000 will be paid from New York State grant funding for infrastructure secured by the County.

The period of probable usefulness of the specific object or purpose herein authorized and for which \$9,000,000 of said serial bonds are herein authorized to be issued, within the limitations of Section 11.00(a)(12)(a)(1) of the New York Local

Finance Law (the “Law”), is twenty-five (25) years.

Section 2. Serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in the aggregate principal amount not to exceed \$9,000,000 to finance said appropriation are hereby authorized to be issued pursuant to the provisions of the Law.

Section 3. The following additional matters are hereby determined and stated:

(a) The facility described above is a class “A” building, as defined in Section 11.00(a)(11)(a) of the Law.

(b) Current funds are not required by the Law to be provided as a down payment prior to the issuance of the serial bonds authorized by this resolution or any bond anticipation notes issued in anticipation thereof in accordance with Section 107.00 of the Law.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

Section 4. The serial bonds authorized by this resolution and any notes issued in anticipation of the sale of such bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any notes issued in anticipation of said bonds shall be general obligations of the County, payable as to both principal and interest by a general tax upon all the taxable real property within the County without limitation of rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and provision shall be made annually in the budget of the County by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 23.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 63.00 and Section 164.00 of the Law, the powers and duties of the County Legislature pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the County Comptroller, the chief fiscal officer of the County.

Section 6. The County Comptroller is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of

the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and to designate the bonds authorized by this resolution and any notes issued in anticipation thereof, if applicable, as “qualified tax-exempt bonds” in accordance with Section 265(b)(3)(B)(i) of the Code.

Section 7. The County Comptroller is further authorized to enter into a continuing disclosure undertaking with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

Section 8. By separate resolution, the County has complied with the provisions of the State Environmental Quality Review Act (“SEQRA”) with respect to the capital project described in this resolution by issuing a negative declaration determining that the capital project described in this resolution will not have a significant effect on the environment.

Section 9. The County may initially use funds from the General Fund or such other funds that may be available to pay the cost of the specific objects or purposes authorized by this resolution, pursuant to Section 165.10 of the Law. The County then reasonably expects to reimburse such expenditure with the proceeds of the bonds or bond anticipation notes authorized by Section 2 of this resolution. This resolution shall constitute the declaration of the County’s “official intent” to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

Section 10. Resolution No. 527, Resolution No. 97, and Resolution No. 513 shall be amended and restated by this resolution and, except as amended by this resolution, such resolutions, including, but not limited to the provisions relating to the capital project for the Albany County Sheriff’s Office Public Safety Building described in Section 1 of Resolution No. 513, shall remain in full force and effect and the terms and conditions thereof are hereby confirmed.

Section 11. The County has issued serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) under this resolution in the aggregate principal amount of \$6,500,000. The history of each issuance follows:

- (a) \$500,000 pursuant to Resolution No. 527 as part of the County’s \$140,740,000 Various Purposes Serial Bonds – 2018 issued on April 12, 2018;
- (b) \$3,000,000 pursuant to Resolution No. 97 as part of the

County's \$37,388,690 Public Improvement Bond Anticipation Notes – 2019 Series A issued on June 6, 2019 (renewed under the County's 2019 Series A Bonds as hereinafter defined); and

- (c) \$3,000,000 pursuant to Resolution No. 97 as part of the County's \$72,440,000 Various Purposes Serial Bonds – 2019 Series A issued on September 24, 2019 (the "2019 Series A Bonds").

Section 12. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) (1) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or

- (2) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- (b) such obligations are authorized in violation of the provisions of the Constitution of New York.

Section 13. This bond resolution shall take effect immediately and the Clerk of the County Legislature is hereby authorized and directed to publish the foregoing resolution in full, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the newspaper(s) designated as the official newspaper(s) of the County for such publication.

CLERK'S CERTIFICATE

I, Paul T. Devane, Clerk of the County Legislature of the County of Albany, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the County Legislature of the County duly called and held on September , 2020, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said County Legislature and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said County of Albany this day of September, 2020.

Clerk of the County Legislature

NOTICE OF BOND RESOLUTION

NOTICE IS HEREBY GIVEN that the resolution published herewith has been adopted for the County of Albany, on the day of September, 2020 and the validity of the obligations authorized by such resolution may be hereafter contested only if:

- (1) (a) such obligations were authorized for an object or purpose for which the County of Albany is not authorized to expend money or
- (b) the provisions of law which should have been complied with as of the date of publication of this notice were not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of publication of this notice; or

(2) such obligations were authorized in violation of the provisions of the Constitution of New York.

Hon. Bruce A. Hidley
Albany County Clerk



DANIEL P. MCCOY
COUNTY EXECUTIVE

SHAWN A. THELEN
COMMISSIONER

COUNTY OF ALBANY
DEPARTMENT OF MANAGEMENT AND BUDGET
112 STATE STREET, SUITE 900
ALBANY, NEW YORK 12207
OFFICE: (518) 447-5525
FAX: (518) 447-5589
www.albanycounty.com

M. DAVID REILLY
DEPUTY COMMISSIONER

September 8, 2020

Hon. Andrew C. Joyce, Chairman
Albany County Legislature
112 State St., Rm. 710
Albany, NY 12207

Dear Chairman Joyce:

Enclosed is a Request for Legislative Action from the Department of Management and Budget seeking approval/adoption of a Fund Balance Policy. Statement No. 54 from the Governmental Accounting Standards Board (GASB), titled "Fund Balance Reporting and Governmental Fund Type definitions" is intended to provide clear fund balance classifications to enhance the usefulness and accountability of fund balance information.

The Policy attached to this request is based upon the Governmental Accounting Standards Board statement No. 54 as well as other Fund Balance policies from across NY State. These policies are not required by the NY State Comptroller, but are highly recommended. This policy helps to establish parameters by which Albany County can define and account for our fiscal resources.

If you have any additional questions, please contact me at your convenience. I will be at the Committee meetings where this is discussed as well.

Sincerely,

M. David Reilly
Deputy Commissioner

cc: Dennis Feeney, Majority Leader
Frank Mauriello, Minority Leader
Rebekah Kennedy, Majority Counsel
Arnis Zilgme, Minority Counsel



Legislation Text

File #: TMP-1905, Version: 1

REQUEST FOR LEGISLATIVE ACTION

Description (e.g., Contract Authorization for Information Services):

Request to approve a Fund Balance Policy

Date: 09/08/2020
 Submitted By: David Reilly
 Department: Management & Budget
 Title: Deputy Commissioner
 Phone: 447-5525
 Department Rep.
 Attending Meeting: David Reilly

Purpose of Request:

- Adopting of Local Law
- Amendment of Prior Legislation
- Approval/Adoption of Plan/Procedure
- Bond Approval
- Budget Amendment
- Contract Authorization
- Countywide Services
- Environmental Impact/SEQR
- Home Rule Request
- Property Conveyance
- Other: (state if not listed) Click or tap here to enter text.

CONCERNING BUDGET AMENDMENTS

Increase/decrease category (choose all that apply):

- Contractual
- Equipment
- Fringe
- Personnel
- Personnel Non-Individual

Revenue

Increase Account/Line No.: Click or tap here to enter text.
Source of Funds: Click or tap here to enter text.
Title Change: Click or tap here to enter text.

CONCERNING CONTRACT AUTHORIZATIONS

Type of Contract:

- Change Order/Contract Amendment
- Purchase (Equipment/Supplies)
- Lease (Equipment/Supplies)
- Requirements
- Professional Services
- Education/Training
- Grant

Choose an item.

Submission Date Deadline Click or tap to enter a date.

- Settlement of a Claim
- Release of Liability
- Other: (state if not listed) Click or tap here to enter text.

Contract Terms/Conditions:

Party (Name/address):
Click or tap here to enter text.

Additional Parties (Names/addresses):
Click or tap here to enter text.

Amount/Raise Schedule/Fee: Click or tap here to enter text.
Scope of Services: Click or tap here to enter text.

Bond Res. No.: Click or tap here to enter text.
Date of Adoption: Click or tap here to enter text.

CONCERNING ALL REQUESTS

Mandated Program/Service: Yes No
If Mandated Cite Authority: Click or tap here to enter text.

Is there a Fiscal Impact: Yes No
Anticipated in Current Budget: Yes No

County Budget Accounts:

Revenue Account and Line: Click or tap here to enter text.
Revenue Amount: Click or tap here to enter text.

Appropriation Account and Line: Click or tap here to enter text.
Appropriation Amount: Click or tap here to enter text.

Source of Funding - (Percentages)

Federal: Click or tap here to enter text.
State: Click or tap here to enter text.
County: Click or tap here to enter text.
Local: Click or tap here to enter text.

Term

Term: (Start and end date) Click or tap here to enter text.
Length of Contract: Click or tap here to enter text.

Impact on Pending Litigation Yes No
If yes, explain: Click or tap here to enter text.

Previous requests for Identical or Similar Action:

Resolution/Law Number: Click or tap here to enter text.
Date of Adoption: Click or tap here to enter text.

Justification: (state briefly why legislative action is requested)

This policy helps to establish parameters by which Albany County can define and account for our fiscal resources, specifically our Fund Balance. It follows the standards laid out by the Governmental Accounting Standards Board and the New York State Comptroller has supported local governments adopting such policies.

Purpose

Albany County proposes to enact the following policy in an effort to ensure financial stability through the maintenance of a reserve fund that guides the use of resources for financial security.

County reserve funds must be properly established and maintained in order to facilitate an open and transparent use of public funds. The primary objective is to maintain a prudent level of financial resources to provide necessary services while minimizing the need to raise taxes and fees due to unanticipated one-time expenditures or temporary revenue shortfalls. Proper management of a healthy fund balance will also ensure that the County is able to maintain the highest possible credit ratings, further improving the County's fiscal situation in both the near and long term.

Background

Statement No. 54 from the Governmental Accounting Standards Board (GASB), titled "Fund Balance Reporting and Governmental Fund Type Definitions" is intended to provide clear fund balance classifications to enhance the usefulness and accountability of fund balance information.

Minimum Fund Balance for the General Fund

- This policy shall apply to the County's General Fund only.
- The Department of Management and Budget will provide guidance to any changes to fund balance.
- The County shall strive to maintain unexpended surplus funds of not less than 10% and not more than 20% of the adopted appropriations in the general fund, excluding interfund transfers.
- These funds will generally come from excess revenues over expenditures.
- It is the intent of the County to limit the use of these fund balances to address unanticipated, non-recurring needs, or unanticipated future obligations. Fund balances should not normally be applied to recurring annual operating expenditures.
- There shall not be a drawdown of more than 10% of the fund balance in any given year outside of a declared State of Emergency.
- In the event that unassigned fund balance exceeds 20% of adopted budget appropriations, the Department of Management and Budget will consider the funding of accrued liabilities, covering one-time expenditures, or the start-up of expenditures for new programs.
- In the event the unassigned fund balance is below the 10% target the Department of Management and Budget will work towards increasing the amount at the earliest appropriate time.

The County will spend the most restricted dollars before less restricted where such spending is appropriate and the legal restriction does not limit the use of such restricted amounts for the purpose in question in the following order:

- Non-spendable (if funds become spendable)
- Restricted
- Committed
- Assigned
- Unassigned

Definitions

- *Nonspendable* – consists of assets that are inherently nonspendable in the current period either because of their form or because they must be maintained intact, including prepaid items, inventories, long-term portions of loans receivable, financial assets held for resale, and principal of endowments.
- *Restricted* – consists of amounts that are subject to externally enforceable legal purpose restrictions imposed by creditors, grantors, contributors, or laws and regulations of other governments; or through constitutional provisions or enabling legislation.
- *Committed* – consists of amounts that are subject to a purpose constraint imposed by a formal action of the government’s highest level of decision-making authority before the end of the fiscal year, and that require the same level of formal action to remove the constraint.
- *Assigned* – consists of amounts that are subject to a purpose constraint that represents an intended use established by the government’s highest level of decision-making authority, or by their designated body or official. The purpose of the assignment must be narrower than the purpose of the general fund, and in funds other than the general fund, assigned fund balance represents the residual amount of fund balance.
- *Unassigned* – represents the residual classification for the government’s general fund, and could report a surplus or deficit. In funds other than the general fund, the unassigned classification should be used only to report a deficit balance resulting from overspending for specific purposes for which amounts had been restricted, committed, or assigned.

RESOLUTION NO. 385

RESCINDING RESOLUTION NO. 217 FOR 2019

Introduced: 10/13/20

By: Drake, Mauriello, Burgdorf, Grimm, Whalen, Langdon, Perlee

WHEREAS, Albany County and its residents face dire economic circumstances due to the COVID-19 pandemic, and

WHEREAS, Cuts in New York State funding are anticipated and increases in payments to the New York State Retirement System are expected, and

WHEREAS, During such challenging times, this legislative body has a duty to implement fiscally conservative measures to limit County risk and ease the burden on taxpayers, and

WHEREAS, Resolution 217 for 2019, adopted by this legislature on July 8, 2019, reduced the threshold for health insurance benefits for current employees from 20 years to 15 years, and

WHEREAS, The costs of this revised policy were never clearly identified, but are undoubtedly larger than if the threshold remained at 20 years, now, therefore, be it

RESOLVED, That Resolution No. 217 for 2019 is hereby rescinded, and, be it further

RESOLVED, By the Albany County Legislature that the Albany County Employee Rules and Regulations, adopted pursuant to Resolution No. 136-b for 1999, which are applicable to all non-union employees of Albany County, as amended, are hereby amended to read as follows:

Article IX, Section A(l)(a)(l)(a) shall read: "The employees with an employment date after the adoption of these rules must have at least twenty (20) years of full time equivalent service with Albany County."

Article IX Retiring Part Time Employees, Group "F" part (b) shall read:

"(b) Eligibility Criteria: • Employees must have completed twenty (20) years of equivalent full-time County service. Calculation of full time service uses a standard work week of not less than thirty five (35) hours per week. • Age 55 or older. • Enrolled in County health insurance"

BE IT FURTHER RESOLVED, That the threshold for years of service required in order to become eligible for health insurance benefits in retirement shall be effective and applied retroactively for all current employees of Albany County hired after the adoption of Resolution No. 136-b for 1999, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.



ALBANY COUNTY SHERIFF'S OFFICE

County Court House Albany, New York 12207 (518) 487-5400
WWW.ALBANYCOUNTYSHERIFF.COM



MICHAEL S. MONTELEONE
EXECUTIVE UNDERSHERIFF

CRAIG D. APPLE, SR.
SHERIFF

WILLIAM M. RICE
UNDERSHERIFF

SHAWN P. NOONAN
CHIEF DEPUTY

LEON A. BORMANN
CHIEF DEPUTY

September 24, 2020

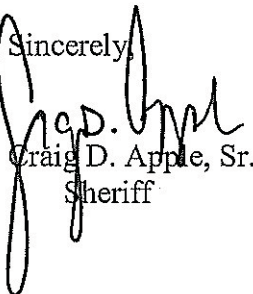
Honorable Andrew Joyce
Legislative Clerk's Office
112 State Street, Room 710
Albany, New York 12207

ANDREW
~~Dear Mr. Joyce:~~

The attached correspondence is forwarded for presentation to the Albany County Legislature.

I am respectfully requesting legislative approval for a transfer of funds to cover expenditures for Department 3110 (Sheriff's) through the year end of 2020.

Should there be any questions, do not hesitate to call.

Sincerely,

Craig D. Apple, Sr.
Sheriff

cc: Hon. Daniel P. McCoy, County Executive
Hon. William Clay, Public Safety Chairman
Hon. Wanda Willingham, Audit & Finance
Brandon Russell, Esq., Majority Counsel
Hon. Arnis Zilgme, Esq., Minority Counsel
Christian Barnes, Minority Conference

REQUEST FOR LEGISLATIVE ACTION

FOR COUNSEL USE ONLY	
DATE:	_____
RECEIVED:	_____
RECEIVED BY:	_____
METHOD:	<u>HAND</u> _____
	<u>COURIER</u> _____
	<u>MAIL</u> _____

DATE : SEPTEMBER 24, 2020

DEPARTMENT: ALBANY COUNTY SHERIFF'S DEPT

CONTACT PERSON: CRAIG D APPLE SR
 TELEPHONE: 518-447-5440
 DEPT. REPRESENTATIVE ATTENDING
 COMMITTEE MEETING: CRAIG D APPLE SR

PURPOSE OF REQUEST:

- ADOPTION OF LOCAL LAW _____
- AMENDMENT OF PRIOR LEGISLATION _____
- APPROVAL/ADOPTION OF PLAN/PROCEDURE _____
- BOND APPROVAL _____
- BUDGET AMENDMENT(SEE BELOW) X
- CONTRACT AUTHORIZATION (SEE BELOW) _____
- ENVIRONMENTAL IMPACT _____
- HOME RULE REQUEST _____
- PROPERTY CONVEYANCE _____
- OTHER:(STATE BRIEFLY IF NOT LISTED ABOVE) _____

CONCERNING BUDGET AMENDMENTS

STATE THE FOLLOWING

INCREASE ACCOUNT/LINE NO. SEE ATTACHED
 SOURCE OF FUNDS: _____
 TITLE CHANGE: _____

CONCERNING CONTRACT AUTHORIZATION,

STATE THE FOLLOWING:

TYPE OF CONTRACT

- CHANGE ORDER/CONTRACT AMENDMENT _____
- PURCHASE (EQUIPMENT/ SUPPLIES) _____
- LEASE (EQUIPMENT/SUPPLIES) _____
- REQUIREMENTS _____
- PROFESSIONAL SERVICES _____
- EDUCATIONAL/TRAINING _____
- GRANT: NEW _____
- RENEWAL _____
- SUBMISSION DEADLINE DATE _____
- SETTLEMENT OF A CLAIM _____
- RELEASE OF LIABILITY _____
- OTHER: (STATE BRIEFLY) _____

CONCERNING CONTRACT AUTHORIZATION (CONT'D)

STATE THE FOLLOWING:

CONTRACT TERMS/CONDITIONS: _____ **PARTY (NAME/ADDRESS):**

AMOUNT/RATE SCHEDULE/FEE:

TERM: _____

SCOPE OF SERVICES: _____

CONTRACT FUNDING:

ANTICIPATED IN CURRENT BUDGET: YES _____ NO _____

FUNDING SOURCE: _____

COUNTY BUDGET ACCOUNTS:

REVENUE: _____

APPROPRIATION: _____

BOND(RES. NO. & DATE OF ADOPTION) _____

CONCERNING ALL REQUESTS:

MANDATED PROGRAM/SERVICE: YES NO _____

IF MANDATED CITE: AUTHORITY **COMPTROLLER'S OFFICE**

ANTICIPATED IN CURRENT ADOPTED BUDGET: YES _____ NO _____

IF YES, INDICATE REVENUE APPROPRIATION ACCOUNTS: _____

FISCAL IMPACT - FUNDING: _____ (DOLLARS OR PERCENTAGES)

FEDERAL _____

STATE _____

COUNTY _____

TERM/LENGTH OF FUNDING _____

PREVIOUS REQUESTS FOR IDENTICAL OR SIMILAR ACTION: _____

RESOLUTION/LAW NUMBER: _____

DATE OF ADOPTION: _____

JUSTIFICATION: _____ (STATE BRIEFLY WHY LEGISLATIVE ACTION IS REQUESTED)

TRANSFER OF FUNDS TO COVER EXPENDITURES FOR DEPARTMENT 3110 (SHERIFFS)

THRU YEAR END 2020

BACK-UP MATERIAL SUBMITTED _____ (I.E. APPLICATION/APPROVAL NOTICES FROM FUNDING SOURCE, BID TABULATION SHEET, CIVIL SERVICE APPROVAL NOTICE, PROGRAM ANNOUNCEMENT, CONTRACTS AND/OR ANY MATERIALS WHICH EXPLAIN OR SUPPORT THE REQUEST FOR LEGISLATIVE ACTION.)

SUBMITTED BY: **CRAIG D APPLE SR**

TITLE: **SHERIFF**



ALBANY COUNTY SHERIFF'S OFFICE

County Court House Albany, New York 12207 (518) 487-5400
WWW.ALBANYCOUNTYSHERIFF.COM



MICHAEL S. MONTELEONE
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September 24, 2020

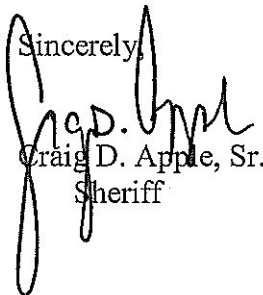
Honorable Andrew Joyce
Legislative Clerk's Office
112 State Street, Room 710
Albany, New York 12207

ANDREW
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I am respectfully requesting legislative approval for a transfer of funds to cover expenditures for Department 3110 (Sheriff's) through the year end of 2020.

Should there be any questions, do not hesitate to call.

Sincerely,

Craig D. Apple, Sr.
Sheriff

cc: Hon. Daniel P. McCoy, County Executive
Hon. William Clay, Public Safety Chairman
Hon. Wanda Willingham, Audit & Finance
Brandon Russell, Esq., Majority Counsel
Hon. Arnis Zilgme, Esq., Minority Counsel
Christian Barnes, Minority Conference

2020 YEAR END TRANSFER OF FUNDS									
ACCOUNT NO.	POS CONTROL	STATE POSITION	APPROPRIATIONS RESOLUTION DESCRIPTION	INCREASE	DECREASE	DEPARTMENT NAME	COMMENTS		
A9 3110 1 9915	10000		HAZARDOUS DUTY PAY	6,250.00		SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 9930	10000		PERSONAL LEAVE PAYOUT	4,786.00		SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 9900	10000		OVERTIME	470,000.00		SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 9850	10000		SICK LEAVE INCENTIVE	12,000.00		SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 9952	10000		COMP. TIME PAYOUT	20,000.00		SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 2310	10000	2	SHERIFFS INSPECTOR		20,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4132	10000	14	SHERIFF INVESTIGATOR		49,036.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	8	DEPUTY SHERIFF		31,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	14	DEPUTY SHERIFF		25,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	15	DEPUTY SHERIFF		16,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	21	DEPUTY SHERIFF		27,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	22	DEPUTY SHERIFF		12,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	26	DEPUTY SHERIFF		2,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	32	DEPUTY SHERIFF		53,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	38	DEPUTY SHERIFF		33,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	51	DEPUTY SHERIFF		27,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	55	DEPUTY SHERIFF		59,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	80	DEPUTY SHERIFF		44,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	81	DEPUTY SHERIFF		65,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	91	DEPUTY SHERIFF		34,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 1 4138	10000	92	DEPUTY SHERIFF		16,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3020 1 9930	10000		PERSONAL LEAVE PAYOUT	400.00		SHERIFFS	YR END ADJUSTMENTS		
A9 3020 1 9950	10000		LONGEVITY RAISE		400.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 4 4037	10000		INSURANCE	3,000.00		SHERIFFS	YR END ADJUSTMENTS		
A9 3110 4 4028	10000		SAFETY SUPPLIES	2,600.00		SHERIFFS	YR END ADJUSTMENTS		
A9 3110 4 4029	10000		AUTOMOBILE PARTS/SUPPLIES	2,300.00		SHERIFFS	YR END ADJUSTMENTS		
A9 3110 4 4027	10000		SECURITY SUPPLIES	1,000.00		SHERIFFS	YR END ADJUSTMENTS		
A9 3110 4 4036	10000		TELEPHONE	10,000.00		SHERIFFS	YR END ADJUSTMENTS		
A9 3110 4 4070	10000		EQUIPMENT REPAIR AND RENTAL	10,000.00		SHERIFFS	YR END ADJUSTMENTS		
A9 3110 4 4049	10000		SPECIAL PROGRAMS		19,900.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 4 4035	10000		POSTAGE		5,000.00	SHERIFFS	YR END ADJUSTMENTS		
A9 3110 4 4104	10000		NATURAL GAS		4,000.00	SHERIFFS	YR END ADJUSTMENTS		
			TOTAL APPROPRIATIONS	542,336.00	542,336.00				



P. DAVID SOARES
DISTRICT ATTORNEY

COUNTY OF ALBANY
OFFICE OF THE DISTRICT ATTORNEY
COUNTY COURT HOUSE
ALBANY, NEW YORK 12207
(518) 487-5460
(518) 487-5093 - FAX

DAVID M. ROSSI
CHIEF ASSISTANT DISTRICT ATTORNEY

CHERYL K. FOWLER
DEPUTY CHIEF ASSISTANT DISTRICT
ATTORNEY

October 6, 2019

Brandon Russell, Majority Counsel
Albany County Legislature
112 State Street, Rm. 700
Albany, N.Y. 12207

Arnis Zilgme, Minority Counsel
Albany County Legislature
112 State Street, Rm. 1360
Albany, N.Y. 12207

Dear Sirs:

I am requesting legislative action to further the mission of the Office of the Albany County District Attorney. The attached resolution seeks permission to:

- Accept funding from Governor's Traffic Safety Highway Safety Program;
- Apply and accept funding from NYS OVS for the Crime Victim Assistance Grant; and
- Amend our budget to account for an Interest Arbitration Agreement and other negative lines.

Attached is the request for legislative action and supporting documents. If you have any questions, please feel free to contact me at 275-4706.

Thank you for your assistance.

Sincerely,

P. David Soares
Albany County District Attorney

FOR COUNSEL USE ONLY	
Date Received:	_____
Received By:	_____
Method: Hand:	_____
Courier:	_____
Mail:	_____

REQUEST FOR LEGISLATIVE ACTION

DATE: October 6, 2020

DEPARTMENT: Office of the District Attorney

Contact Person: Heather Orth

Telephone: 275 4704

Dept. Representative Attending

Committee Meeting: Heather Orth and/or David Soares, District Attorney

PURPOSE OF REQUEST:

- Adoption of Local Law _____
- Amendment of Prior Legislation _____
- Approval/Adoption of Plan/Procedure _____
- Bond Approval _____
- Budget Amendment (See below) X
- Contract Authorization (See below) _____
- Environmental Impact _____
- Home Rule Request _____
- Property Conveyance _____
- Other: (State briefly if not listed above) _____

CONCERNING CONTRACT AUTHORIZATION (Cont'd)

STATE THE FOLLOWING:

Contract Terms/Conditions:

Party (Name/Address):

Amount/Rate Schedule/Fee:

Term: _____

Scope of Services: _____

Contract Funding:

Anticipated in Current Budget: Yes X No _____

Funding Source: _____

County Budget Accounts:

Revenue:

Appropriation: _____

CONCERNING ALL REQUESTS:

Mandated Program/Service: Yes _____ No X

If Mandated Cite: Authority _____

Anticipated in Current Adopted Budget: Yes _____ No X

If yes, indicate Revenue/Appropriation Accounts:

Revenue:

Appropriation:
Fiscal Impact – Funding: (Dollars or Percentages)
Federal _____
State 100%
County _____
Term/Length of Funding _ _ _

Previous Requests for Identical or Similar Action:

Resolution/Law Number: _____

Date of Adoption: _____

Justification: (State briefly why legislative action is requested)

This request is being made to clean up negative lines in the 2020 budget.

Back-up Material Submitted:

Arbitration Agreement

Submitted By: Heather Orth

Title: Confidential Assistant to the District Attorney

2020 Reallocation

APPROPRIATIONS						
	ACCOUNT I	RESOLUTION DESCRIPTION	INCREASE	DECREASE	UNIT COST	DEPARTMENT NAME
A9 1165	1 4020 001	CRIMINAL FORENSIC AUDITOR	5,154		70859	District Attorney
A9 1165	1 4021 001	CRIMINAL INVESTIGATOR	5,154		70859	District Attorney
A9 1165	1 4021 002	CRIMINAL INVESTIGATOR	5,154		70859	District Attorney
A9 1165	1 4021 003	CRIMINAL INVESTIGATOR	5,154		70859	District Attorney
A9 1165	1 4021 004	CRIMINAL INVESTIGATOR	5,154		70859	District Attorney
A9 1165	1 4021 005	CRIMINAL INVESTIGATOR	5,154		70859	District Attorney
A9 1165	1 4021 006	CRIMINAL INVESTIGATOR	5,154		70859	District Attorney
A9 1165	1 4021 007	CRIMINAL INVESTIGATOR	5,154		70859	District Attorney
A9 1165	1 4021 008	CRIMINAL INVESTIGATOR	5,154		70859	District Attorney
A9 1165	1 4032 001	SENIOR CRIMINAL INVESTIGATOR	3,905		74,162	District Attorney
A9 1165	8 9060	HOSPITAL AND MEDICAL INSURANCE		\$ 50,291		
A9 1165	1 4022	CRIMINAL INVESTIGATOR PT	29,247			0 District Attorney
A9 1165	4 4054	TRANSCRIPTION SERVICES		29,237		District Attorney
		TOTAL APPROPRIATIONS	79,538.00	79,528.00	496,013.00	

ESTIMATED REVENUES						
	ACCOUNT I	RESOLUTION DESCRIPTION	DECREASE	INCREASE	UNIT COST	DEPARTMENT NAME
		TOTAL ESTIMATED REVENUES	0.00	0.00		
		GRAND TOTALS	79,538.00	79,528.00		

2020 Reallocation

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD
INTEREST ARBITRATION PANEL

In the Matter of the Interest Arbitration between

THE COUNTY OF ALBANY,

Public Employer,

OPINION

-and-

AND

INTERNATIONAL BROTHERHOOD OF TEAMSTERS
LOCAL 294, (District Attorney's Investigators),
Employee Organization.

AWARD

PERB Case No. IA2018-014; M2018-046

BEFORE:

Jeffrey M. Selchick, Esq.
Public Panel Member and Panel Chairman

Jennifer Clement
Public Employer Panel Member

William H. Ward, Jr.
Employee Organization Panel Member

APPEARANCES:

For the County of Albany
Jeffery V. Jamison, Esq.
Director of Employee Relations

International Brotherhood of Teamsters Local 294
District Attorney's Investigators
Pozefsky, Bramley & Murphy
Bruce C. Bramley, Esq.

BACKGROUND

Pursuant to the provisions contained in Section 209.4 of the Civil Service Law, the undersigned Panel was designated by the New York State Public Employment Relations Board ("PERB") to make a just and reasonable determination of a dispute between the International Brotherhood of Teamsters, Local 294, District Attorney's Investigators ("Union") and the County of Albany ("County" or "Employer").

The County of Albany is a municipality in the State of New York, organized and operating pursuant to Charter, and has a designated elected County Executive to direct and manage the operations of the County. The County has a diverse population of approximately 305,500 people and an annual budget of over \$730 million dollars. Amongst other duties, the County Executive, through various staff, prepares and implements the County Budget, and is responsible for negotiations with the various bargaining units which represent County employees. The District Attorney is also an elected official and employs Investigators and Senior Investigators within his office. The County has employees in 18 different bargaining units. All have current collective bargaining agreements which extend through 2021 except for the unit at issue herein for the DA Investigators and Senior Investigators.

The instant proceeding concerns a negotiations dispute between the County and the Union concerning the District Attorney's Investigators bargaining

unit. The bargaining unit consists of approximately 8 Investigators and Senior Investigators who are employed by the County and work for the Albany County District Attorney. After negotiations and mediation were not successful, the Association filed a petition with the State Public Employment Relations Board ("PERB") on or about February 26, 2019 for interest arbitration (Joint Exhibit 1). The City filed its response to the petition on or about March 18, 2019 (Joint Exhibit 2), and the undersigned Panel was thereafter designated by PERB on or about April 22, 2019, to make a just and reasonable determination of the matters in dispute. An evidentiary hearing was held before the Panel in Albany on August 20, 2019 at which both parties were represented by Counsel and had the opportunity to present evidence, examine witnesses, and make arguments in support of their respective positions. The parties filed post-hearing briefs, which were received by the Panel on or about October 16, 2019, and thereafter both parties filed reply briefs which were received by the Panel on or about November 15, 2019, at which time the record was declared closed.

The record indicates that the parties were signatories to a collective bargaining agreement for the period which commenced on January 1, 2010 and continued through December 31, 2016 (Joint Exhibit 5). This was an initial Agreement for a newly constituted bargaining unit consisting solely of Investigators and Senior Investigators employed by the Albany County District Attorney's Office. Prior to that Agreement, the bargaining unit members herein

were part of a larger bargaining unit which included Investigators, Senior Investigators, and other law enforcement supervisors employed by the Albany County Sheriff's Department, which Agreement expired on December 31, 2009 (Joint Exhibit 3). While in the larger bargaining unit with Investigators and Senior Investigators employed by the County Sheriff's Department, DA Investigators and Senior Investigators were paid at the same salary rate as those in the same titles and employed by the County Sheriff's Department (Appendix B, Joint Exhibit 3).

The bargaining and resultant Agreements which followed are the basis for the instant dispute and impasse. Subsequent to the DA Investigators and Senior Investigators leaving the larger bargaining unit consisting of County Sheriff's Department sworn employees, the Union, which represented both units and continues to do so, negotiated the initial Agreement for the DA Investigators and Senior Investigators bargaining unit. This Agreement, reached in 2014, provided wage determinations for the years 2010 through 2016 ranging from zero to 2% per year (see Appendix A, Joint Exhibit 5). As of the end of this Agreement, which was December 31, 2016, DA Investigators had a base salary of \$65,704 and Senior Investigators had a base salary of \$68, 879 (see Appendix B, Joint Exhibit 5).

Thereafter, an Agreement was reached by the Union and the County for the larger bargaining unit consisting of the Investigators and Senior Investigators and other law enforcement supervisors in the County Sheriff's Department for the

period 2010 through 2016 (Joint Exhibit 4). Review of this Agreement indicates that at the end of this Agreement, also December 31, 2016, the base salary for Sheriff's Investigators was \$68,784 and for Sheriff's Senior Investigators was \$72,415 (Appendix B, Joint Exhibit 4). While both units received the same across the board wage increases for the period 2010 through 2016, the Sheriff's Investigators and Senior Investigators were now being paid \$3080 more than DA Investigators and the Sheriff's Senior Investigators were now being paid \$3526 more than DA Senior Investigators. Apparently, this was partially due to line up pay being rolled into base salaries for Sheriff's Investigators and Senior Investigators as of July 3, 2015 (see Article VI, Section 1; and Appendix B of Joint Exhibit 4).

The Union and the County then were able to negotiate an Agreement for the Sheriff's Law Enforcement Supervisors bargaining unit for the period commencing January 1, 2017 and continuing through December 31, 2021 (Joint Exhibit 6). Relevant to the instant impasse, this Agreement, which is currently in effect, provide Sheriff's Investigators and Senior Investigators with a 2% salary increase retroactive to January 1, 2017 and a 2% salary increase retroactive to January 1, 2018. Additional salary increases for the years 2019, 2020 and 2021 were also provided therein, but are not relevant to the instant impasse.

This resulted in Sheriff's Investigators and Senior Investigators having a base salary of \$70,160 and \$73,863 respectively in 2017 and base salaries of

\$71,563 and \$75,341 in 2018. Additionally, in the 2017-2021 Sheriff's Agreement, a Hazardous Duty Stipend of \$500 was added for 2018 (see Article IX, Joint Exhibit 6).¹

Notwithstanding good faith negotiations, the Union and the County were unable to reach final agreement on an Agreement for the DA Investigators and Senior Investigators unit for any period beyond the expiration of the 210-2016 Agreement. While the parties were able to negotiate and reach agreement on many issues, the issue of the appropriate wage increase that would be provided to the DA Investigators and Senior Investigators for 2017 and 2018 and any years beyond, was not resolved. Accordingly, as the Panel's jurisdiction is limited to a two-year period, the Panel is empowered to decide a just and fair resolution to such wage dispute for DA Investigators and Senior Investigators for the years 2017 and 2018.

To reach such resolution, the Panel has fully reviewed all data, evidence, arguments and issues submitted by the parties. After significant discussion and deliberations at an Executive Session and several telephone conferences calls, the Panel was finally able to reach an Award.² The positions taken by both parties are quite adequately specified in the Petition and the Response, numerous hearing exhibits, and post-hearing written submissions, all of which

¹ Additional Hazardous Duty Stipends are provided in the 2017-2021 Sheriff's Agreement for the years 2019 through 2021.

² This Award has been delayed due to the many issues created by the Covid-19 pandemic.

are summarized herein and incorporated by reference into this Award.

Accordingly, set out herein is the Panel's Award as to what constitutes a just and reasonable determination of the parties' Award setting forth the terms and conditions for the period January 1, 2017 through December 31, 2018.

In arriving at such determination, the Panel has specifically reviewed and considered all of the following criteria, as detailed in Section 209.4(v) of the Civil Service Law:

(v) the public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:

a) comparison of the wages, hours and conditions of employment of the employee involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities;

b) the interest and welfare of the public and the financial ability of the public employer to pay;

c) comparison of peculiarities in regard to other trades or professions, including specifically, 1) hazards of employment; 2) physical qualifications; 3) educational qualifications; 4) mental qualifications; 5) job training and skills;

d) the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

POSTION OF THE UNION

On behalf of the 8 members of the DA Investigators bargaining unit, the Union contends that since the County has not claimed that it has any inability to pay the wage increases sought herein, that issue was not addressed in detail by the Union, although a financial report was placed into evidence herein (see Union Exhibit 4). While the Union had a recognized financial expert present and prepared to present testimony at the hearing held before the Panel on August 20, 2019, the County entered into a Stipulation that it was not raising "inability to pay" as a defense in this dispute. However, the Union does point out that the financial analysis conducted by its expert did conclude that the wage relief requested by the Union would not have "a significant effect on the finances of the County" (Exhibit O, Union Exhibit 4).

The Union requests that the Panel award its wage proposal which is a 2% wage increase for both calendar years 2017 and 2018 and a one-time stipend to wages for both the Investigators and Senior Investigators of \$3080 and \$3526 respectively, with both stipends to be effective as of January 1, 2017 (Union Exhibit 1). The Union maintains that in addition to the 2% yearly wage increases, which were also received by the Sheriff's Investigators unit, the one-time stipend is necessary to equalize the DA Investigators and Senior Investigators to the same amount paid to those in the same titles in the Sheriff's Department.

The Union notes that the qualifications for those titles in the DA's Office are exactly the same as those of those employed by the Sheriff's Department and both work for the same employer—Albany County. In fact, as testified to by District Attorney David Soares, the criminal investigators working in the DA's Office have more experience as police in the criminal investigation field, are called upon to do a more difficult level of investigation work, and yet are paid less than those Investigators and Senior Investigators employed by the Sheriff's Department. DA Soares further testified that as Albany is the capital city of New York State, it is different than other upstate District Attorney's Offices due to the presence of government offices, more complex cases involving government, and a resultant greater case load (see Union Exhibits 2A-2F and Union Exhibit 3).

The Union argues that the DA Investigators and Senior Investigators have more experience than those in the Sheriff's Department as all in the DA's Office have worked full careers in other police departments and possess greater experience, training and knowledge, which is necessary for the more complex work performed by the DA's Office. As most of the DA Investigators and Senior Investigators completed prior careers, the County is not required to pay pension costs for any but two, and only three require the County to pay health insurance contributions on their behalf. The Union claims savings from these costs alone, more than covers the cost of the wage proposals sought herein to equalize wages with those employed in the same titles in the Sheriff's Department.

POSITION OF THE COUNTY

The County argues that while the issue is not whether the County can afford the wage increases sought by the Union herein, but rather are such increases equitable based upon the title, duties and circumstances, when compared to other District Attorney investigators similarly situated in upstate New York. The County maintains that the proper comparable to those in the Albany DA's Office are investigators in District Attorney's offices in the surrounding counties and upstate New York. The comparison reveals, according to the County, that Albany DA's Office Investigators and Senior Investigators are the highest paid (see County Exhibit 1). The comparison included Schenectady, Rensselaer, Saratoga, Broome, Monroe, Greene, Oneida and Erie counties. Of note is that Erie County DA's Office pays investigators \$15,000 less even though Erie County has a population of over 925,000 people.

The County argues that the proper comparison is that made above—to other investigators and senior investigators in other DA's Offices and not to those in the Albany County Sheriff's Department. The work performed in each DA Office is identical in that all investigators have the same duties, do the same work, enforce the same laws and provide the same services to the prosecutors in each county. The fact that Albany is the capital does not change the work being performed by the Albany DA's office. In most counties, there are government offices and crimes therein are prosecuted by the local DA and not the Albany DA.

The County further puts forth that as the work of investigators in most DA's office is the same, it is also notable that the caseload of the Albany DA's Office is no greater than that of DA's Offices in comparable counties. While it is true that Albany County may have had more arrest in 2018 when compared to surrounding counties, the Panel should note that the Albany DA's Office has more investigators than many of the other counties. Rensselaer County is provided as an example where numbers for 2018 indicate that Albany County had an aggregate of 7,115 arrests compared to 3,239 in Rensselaer County, the Albany County DA's Office has 7 Investigators, compared to 2 in Rensselaer County. Therefore, contrary to the Union's claim, Albany County Investigators and Senior Investigators, in fact, have a lesser caseload than those in the same titles in comparable counties.

Additionally, the County points out that what the Union is really seeking to do is reopen and renegotiate the 2010-2016 Agreement to achieve parity with the Sheriff's unit. It was the Union which sought to break off from the Sheriff's unit, as they maintained that were significantly different. They cannot now claim parity. Further, the County indicates that many of the members of the DA's investigative unit are receiving full pensions from prior employment and are enjoying the benefits of a waiver. This allows them to receive full salary plus full pension. At the Sheriff's Office, there are no such waivers issued. The Union's request for wage increases must be rejected under the criteria of CSL §209.

PANEL DETERMINATION

COMPARABILITY

Section 209.4 of the Civil Service Law requires that in order to properly assess and determine the issue before it, the Panel must engage in a comparative analysis of terms and conditions of employment with "other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities."

In relation to the issue of comparability, the Panel found the testimony of Albany County DA Soares to be most instructive and persuasive. The District Attorney testified in support of the Union's request for wage increases that would bring the salaries of DA Investigators and Senior Investigators to the same level as those in the Sheriff's Department. DA Soares testified that when he became Albany County DA in 2005, he was concerned regarding the level of investigation in preparation for cases in court. As he pointed out, the Sheriff's Department investigators work a case from a report of a possible crime through investigation of that report to a determination of probable cause to believe a crime has been committed. In the DA's Office, Investigators pick up the case from a probable cause finding and must work it up through the point of being able to prove beyond a reasonable doubt, in order to effectively negotiate a plea bargain or

take a case to trial. This level of investigative work, according to DA Soares, is more difficult and requires greater experience and expertise on the part of the Investigator.

DA Soares further testified that the Albany County DA's Office has a unique jurisdiction due to being the Capital of NYS government. As a result, it may prosecute cases outside of the County and prosecutes cases investigated not only by local police but also from NYS Agencies and Commissions. The Albany DA's Office often work with the NYS Attorney General on cases resulting from NYS investigations into government and government employees. These types of investigations require the DA's Office investigators to have greater experience and special skills in the areas of internet and cybercrime, fire investigation, domestic violence, child abuse and sex crimes, financial malfeasance, white collar crime and banking and insurance fraud. DA Soares testified that such experience is gained by hiring experienced investigators who often have gained such experience from working full careers with other police agencies. The Albany DA's Office, according to DA Soares, benefits greatly from such experience, and Investigators and Senior Investigators in his office should not be paid less than those who do not have such training, knowledge and experience. DA Soares indicated that like the Assistant District Attorneys and the Public Defenders in the County, DA Investigators and Senior Investigators must have pay equity with those in the same titles in the Sheriff's Department.

DA Soares also testified that Investigators in his office also provide witness protection and security to encourage and maintain cooperation with necessary trial witnesses. While the DA agreed that Sheriff's Department investigators do acquire necessary evidence to reach the probable cause standard, the DA's Investigators often conduct a full investigation to insure there is sufficient evidence to indict and subsequently convict the offender or offenders. They also draft and execute search warrants, based on experience and the DA's Investigators must also coordinate with local police investigators to prepare the case for trial.

In terms of comparability, the Panel is persuaded by DA Soares that the Albany County DA's Office is different from other DA's offices in surrounding and upstate counties. Clearly, it is also different than the work performed by the County Sheriff's Departments investigators. As testified to by DA Soares, the reason for the fragmentation and demand for a separate bargaining unit for DA's Investigators and Senior Investigators was related to control over disciplinary issues, and should not have resulted in DA investigators now receiving a lower wage than those performing similar but in his opinion, somewhat lesser duties for the same employer.

Upon review of such testimony by DA Soares, the Panel finds that similar titles in DA offices in surrounding and upstate counties are not the appropriate comparison for purposes of our review herein. While not fully comparable with

the duties performed by Sheriff's Office Investigators, and in fact more extensive, they both share the same employer, namely Albany County. That fact, in itself, can lead to the conclusion that DA Investigators and Senior Investigators, performing duties that require greater expertise, experience, knowledge and training, should not be earning so much less than those in the Sheriff's Department.

INTEREST AND WELFARE OF THE PUBLIC AND ABILITY TO PAY

Section 209.4 of the Civil Service Law requires that in order to properly assess and determine the issue before it, the Panel must consider "the interest and welfare of the public and the financial ability of the public employer to pay."

At the evidentiary hearing of this dispute on August 20, 2019, and in post-hearing submissions, the County stipulated and agreed that it did not lack the financial ability to pay the wage increases sought herein by the Union. Since that time, Albany County, along with the rest of the USA and the entire world, has suffered financially from the Covid-19 pandemic. Additionally, the County, like all others, has had additional expense attendant to the pandemic. While it is unclear as of this writing whether the Federal government will provide further financial aid to municipalities, the County's future financial condition has changed. In that regard, the Panel recognizes that the County anticipates the loss of significant sales tax revenue due to the pandemic.

However, for several reasons, the Panel finds that the Covid-19 pandemic, and its economic effects, does not change the record herein that the County does not lack the ability to pay the wage increases sought by the Union.

The wage increases sought herein are for 2017 and 2018, and for those years, the County provided employees with 2% across the board salary increases for both years. Clearly, at some point, the County was well aware that the DA Investigator unit herein would receive those increases, as well as the possibility of additional increases beyond that. The 2% across the board salary increases, which the County was prepared to offer this unit at that time, is now a debt come due, and the County cannot now fairly claim it cannot afford to pay that debt, even if it has spent the monies allocated for such purpose.

The record herein, having been closed many months ago, has no evidence concerning the County's current financial situation and cannot speculate on what it may be in the future.

There are only eight (8) members of the DA's Investigator unit, and even if the Union's wage increase proposal was accepted in full, it would still not represent any significant impact on a County budget of over \$733 million dollars. The financial impact is miniscule.

Only two (2) of the current DA Investigators require any pension contributions and only three (3) require health insurance contributions on the part of the County, resulting in significant savings to the County.

WAGE INCREASES

The Panel has concluded, as opined above, that the unit of DA Investigators and Senior Investigators should be paid on par with those employed by the County in the same title in the Sheriff's Department. The Panel has also concluded that the County does not lack the financial ability to pay the wage increases provided herein.

However, the Panel also notes the current and unclear financial future created for all municipalities by the Covid-19 pandemic. In recognition of that uncertainty, the Panel has determined that a fair and reasonable wage increase is less than the wage increases sought by the Union. The wage increases awarded herein recognize and address the pay inequality existent between employees in the same titles in the two different units, and goes far to address and correct that inequality and based on the amount awarded, and the retroactive date provided herein, takes into account to some extent the financial uncertainty faced by the County. And it must be repeated herein, that the wage increases provided herein affect only eight (8) employees and represents a miniscule impact on the County's budget and its ability to pay such increases.

Accordingly, based on the foregoing, the Panel finds and makes the following:

AWARD ON WAGE INCREASES

Effective January 1, 2017 and retroactive to that date, the base salary schedule shall be increased by 2%.

Effective January 1, 2018 and retroactive to that date, the base salary schedule shall be increased by 2%.

Effective July 31, 2018 and retroactive to that date, a one-time equity adjustment in the amount of \$2,500 shall be added to base salary.

Retroactivity shall only apply to those employees on the payroll on the Date of this Award and/or any employee who has separated from service due to retirement or disability.

JEFFREY M. SELCHICK, ESQ.
Public Panel Member and Chairman

Date of Award

JENNIFER CLEMENT, ESQ.
Public Employer Panel Member

Date

WILLIAM H. WARD, JR.
Employee Organization Panel Member

Date

STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

On this day of 2020 before me personally came and appeared Jeffrey M. Selchick, Esq, to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.

Notary Public

STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

On this day of 2020 before me personally came and appeared Jennifer Clement, to me known and known to me to be the individual described in the foregoing Instrument, and she acknowledged to me that she executed the same.

Notary Public

STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

On this day of 2020 before me personally came and appeared William H. Ward, Jr., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.

Notary Public



COUNTY OF ALBANY OFFICE OF THE COMPTROLLER
112 STATE STREET, ROOM 1030, ALBANY, NEW YORK 12207-2021
(518) 447-7130 | susan.rizzo@albanycountyny.gov

SUSAN A. RIZZO
COUNTY COMPTROLLER

October 22, 2020

Hon. Andrew Joyce, Chairman
Albany County Legislature
112 State Street – Suite 710
Albany, New York 12207

RE: RLA – Bond Counsel Services – RFP #2020-108

Dear Hon. Andrew Joyce,

The Department of Audit and Control is requesting approval to execute a professional services contract for bond counsel services for all borrowings by Albany County with Hodgson Russ LLP. The RLA, RFP #2020-108, the Hodgson Russ proposal, proposal ratings, Purchasing Agent concurrence letter, and Resolution 2015-506 are included for your review.

Should you have any questions, please contact me at (518) 447-7130.

Sincerely,

Susan A. Rizzo
County Comptroller

cc: Patrick Collins, Counsel to the Chair
Rebekah Kennedy, Majority Counsel
Arnis Zilgme, Minority Counsel

REQUEST FOR LEGISLATIVE ACTION

Contract Authorization for Bond Counsel Services:

Date: 10/22/2020
Submitted By: Susan A. Rizzo
Department: Department of Audit and Control
Title: County Comptroller
Phone: (518) 447-7130
Department Rep.
Attending Meeting: Susan A. Rizzo

Purpose of Request:

- Adopting of Local Law
 - Amendment of Prior Legislation
 - Approval/Adoption of Plan/Procedure
 - Bond Approval
 - Budget Amendment
 - Contract Authorization
 - Countywide Services
 - Environmental Impact/SEQR
 - Home Rule Request
 - Property Conveyance
 - Other: (state if not listed) _____
-

CONCERNING BUDGET AMENDMENTS

Increase/decrease category (choose all that apply):

- Contractual
- Equipment
- Fringe
- Personnel
- Personnel Non-Individual
- Revenue

Increase Account/Line No.:

Source of Funds:

Title Change:

CONCERNING CONTRACT AUTHORIZATIONS

Type of Contract:

- Change Order/Contract Amendment
- Purchase (Equipment/Supplies)
- Lease (Equipment/Supplies)
- Requirements
- Professional Services
- Education/Training
- Grant

Choose an item.
Submission Date Deadline

- Settlement of a Claim
- Release of Liability
- Other: (state if not listed)

Contract Terms/Conditions:

Party (Name/address):

Hodgson Russ LLP
677 Broadway, Suite 301
Albany, NY 12207
(518) 465-2333

Additional Parties (Names/addresses):

Amount/Raise Schedule/Fee:	See attached supporting documentation
Scope of Services:	Bond Counsel Services

Bond Res. No.:
Date of Adoption:

CONCERNING ALL REQUESTS

Mandated Program/Service: Yes No
If Mandated Cite Authority:

Is there a Fiscal Impact: Yes No
Anticipated in Current Budget: Yes No

County Budget Accounts:
Revenue Account and Line:
Revenue Amount:

Appropriation Account and Line:
Appropriation Amount:

Source of Funding – (Percentages)

Federal:
State:
County: 100%
Local:

Term

Term: (Start and end date) 12/01/2020 – 11/30/2023
Length of Contract: 3 years with two optional 1 year extensions

Impact on Pending Litigation Yes No

If yes, explain:

Previous requests for Identical or Similar Action:

Resolution/Law Number: Resolution 15-506
Date of Adoption: 12/07/2015

Justification: (state briefly why legislative action is requested)

Albany County requires bond counsel for all County borrowings by the County Comptroller. The most recent contract for bond counsel services expires November 30, 2020.

Bond Counsel Services (RFP 2020-108R)	
	Average Rating
Hawkins, Delafield & Wood	4.57
Whiteman, Osterman & Hanna	3.93
Nixon Peabody LLP	4.13
Hodgson Russ LLP	4.92

RM

RFP #2020-108R: Bond Counsel

Proposal Rating Worksheet

Reviewer: Ransom Moore

	Weight	Hawkins, Delafield & Wood		Whiteman, Osterman & Hanna		Nixon Peabody LLP		Hodgson Russ LLP	
		Rate	Score	Rate	Score	Rate	Score	Rate	Score
Proposer's Qualifications (Section II of Proposal Submission)	25%	5	1.25	5	1.25	5	1.25	5	1.25
Proposer's Experience (Section III of the Proposal Submission)	25%	4	1	4	1	4	1	5	1.25
Proposer's Plan Implementation (Section IV of Proposal Submission)	15%	5	0.75	5	0.75	5	0.75	5	0.75
Cost Proposal (Section V of Proposal Submission)	35%	4	1.4	2	0.7	3	1.05	5	1.75
TOTALS:				4.4		3.7		4.05	5

NOTES:

Hodgson Russ is only firm that will not charge the County for drafting Bond Resolutions or reviewing Official Statements. This can add a significant cost because the County's borrowing typically includes multiple resolutions for multiple capital projects. Hawkins, Delafield & Wood is close in pricing at higher borrowing levels but Hawkins will charge additional fees. The Comptroller plans more disciplined borrowing going forward so this will most likely not be a factor.

MM

RFP #2020-108R: Bond Counsel

Proposal Rating Worksheet

Reviewer: Mike McNeff

	Weight	Hawkins, Delafield & Wood		Whiteman, Osterman & Hanna		Nixon Peabody LLP		Hodgson Russ LLP	
		Rate	Score	Rate	Score	Rate	Score	Rate	Score
Proposer's Qualifications (Section II of Proposal Submission)	25%	5	1.25	4	1	4	1	5	1.25
Proposer's Experience (Section III of the Proposal Submission)	25%	5	1.25	4	1	5	1.25	4	1
Proposer's Plan Implementation (Section IV of Proposal Submission)	15%	5	0.75	5	0.75	5	0.75	5	0.75
Cost Proposal (Section V of Proposal Submission)	35%	4	1.4	2	0.7	3	1.05	5	1.75
TOTALS:			4.65		3.45		4.05		4.75

NOTES: _____

CD

RFP #2020-108R: Bond Counsel

Proposal Rating Worksheet

Reviewer: Chip Dott

	Weight	Hawkins, Delafield & Wood		Whiteman, Osterman & Hanna		Nixon Peabody LLP		Hodgson Russ LLP	
		Rate	Score	Rate	Score	Rate	Score	Rate	Score
Proposer's Qualifications (Section II of Proposal Submission)	25%	5	1.25	5	1.25	5	1.25	5	1.25
Proposer's Experience (Section III of the Proposal Submission)	25%	5	1.25	5	1.25	5	1.25	5	1.25
Proposer's Plan Implementation (Section IV of Proposal Submission)	15%	5	0.75	5	0.75	5	0.75	5	0.75
Cost Proposal (Section V of Proposal Submission)	35%	4	1.4	4	1.4	3	1.05	5	1.75
TOTALS:			4.65		4.65		4.3		5

NOTES: _____



DANIEL P. McCOY
COUNTY EXECUTIVE


COUNTY OF ALBANY
DEPARTMENT OF GENERAL SERVICES
PURCHASING DIVISION
112 STATE STREET, ROOM 1000
ALBANY, NEW YORK 12207-2021
(518) 447-7140 - FAX (518) 447-5588

DAVID M. LATINA
COMMISSIONER OF GENERAL SERVICES

KAREN A. STORM
PURCHASING AGENT

MEMORANDUM

TO: Susan A. Rizzo
Albany County Comptroller

FROM: Karen Storm 
Purchasing Agent

DATE: October 22, 2020

RE: RFP #2020-108R

I am in receipt of your recommendation to award the aforementioned Request for Proposals to Hodgson Russ LLP.

I have reviewed your scoring sheets and believe that you have performed a thorough evaluation of the proposal(s) submitted. I have no objection to the selection of Hodgson Russ LLP for an award.

Please obtain the necessary contract approval so that we may issue a Notice of Award to the successful proposer.

RESOLUTION NO. 506

**AUTHORIZING AN AGREEMENT WITH HODGSON RUSS, LLP
REGARDING BOND COUNSEL SERVICES**

Introduced: 12/7/15

By: Audit and Finance Committee:

WHEREAS, The Albany County Purchasing Agent in cooperation with the County Comptroller and the County Attorney issued a Request for Proposals (RFP) regarding bond counsel services for Albany County, and

WHEREAS, The Comptroller's Office and the Department of Law have reviewed the responses of three institutions that were received and considered criteria such as the firm's qualifications and experience, plan implementation and cost proposals, and

WHEREAS, The Comptroller and the County Attorney have recommended that a contract for bond counsel services be awarded to Hodgson Russ, LLP, 677 Broadway, Albany, New York based on a comparison of the criteria set forth above, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with Hodgson Russ, LLP, 677 Broadway, Albany, New York, for bond counsel services according to fee arrangements specified in the firm's RFP response, for a term beginning December 1, 2015 through November 30, 2016, with an option to renew the agreement for two additional one-year terms, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote. 12/7/15

COUNTY OF ALBANY
REQUEST FOR PROPOSALS
ALBANY COUNTY COMPTROLLER



RFP # 2020-108

Bond Counsel

ALBANY COUNTY DEPARTMENT OF GENERAL SERVICES
PURCHASING DIVISION
KAREN A. STORM, PURCHASING AGENT
112 STATE STREET, ROOM 1000
ALBANY, NY 12207

COUNTY OF ALBANY
DEPARTMENT OF GENERAL SERVICES PURCHASING DIVISION
112 STATE STREET, ROOM 1000, ALBANY, NY 12207
TELEPHONE: 518-447-7140/ FAX: 518-447-5588

TITLE: Bond Counsel RFP NUMBER: 2020-108

Receipt Confirmation Form

Please complete and return this confirmation form as soon as possible:

Karen A. Storm
Purchasing Agent
County of Albany
112 State Street, Room 1000
Albany, NY 12207

IF YOU PLAN TO SUBMIT A PROPOSAL, YOU MUST RETURN THIS FORM TO ENSURE THAT YOU WILL RECEIVE ALL FURTHER COMMUNICATION REGARDING THIS RFP.

Company Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Contact Person: _____

Title: _____

Phone Number: _____ Fax Number: _____ E-Mail: _____

If a Bidders/Proposers meeting has been arranged for this Bid/RFP, please indicate if you plan to attend:

Yes / No

I authorize the County of Albany to send further correspondence that the County deems to be of an urgent nature by the following method (check):

Fax Number: _____ E-Mail _____

COUNTY OF ALBANY
DEPARTMENT OF GENERAL SERVICES
PURCHASING DIVISION
112 STATE STREET, ROOM 1000
ALBANY, NY 12207

NON-PROPOSER RESPONSE

RFP #2020-108

The Albany County Department of General Services, Purchasing Division, is interested in the reasons why bidders/proposers fail to submit bids/proposals. Please indicate your reason(s) by checking all appropriate item(s) below and returning this form to the above address.

- Could not meet Scope of Services.
- Items or materials requested not manufactured by us or not available to our company.
- Insurance requirements too restricting.
- Bond requirements too restricting.
- Scope of Services not clearly understood or applicable (too vague, too rigid, etc.).
- Project not suited to firm.
- Quantities too small.
- Insufficient time allowed for preparation of bid/proposal.
- Other reasons; please state and define: _____

Vendor Name: _____

Contact Person: _____

Vendor Address: _____

Vendor Telephone: _____

**NOTICE TO PROPOSERS -- ALBANY COUNTY
REQUEST FOR PROPOSALS #2020-108**

Sealed Proposals for **Bond Counsel** as requested by the Albany County Comptroller will be received by the Albany County Purchasing Agent, Room 1000, 112 State Street, Albany, New York 12207 until 4:30 PM, local time on Friday, September 25, 2020

Request for Proposal (RFP) documents may be obtained at the office of the Albany County Purchasing Agent, as noted above. RFP documents may be available for download from the Empire State Bid System website at <http://www.empirestatebidsystem.com>, starting by close of business (4:30 p.m.) on Thursday, September 10, 2020.

Karen A. Storm
Purchasing Agent

Dated: August 31, 2020
Albany, New York

PUBLISH ONE DAY –Thursday, September 10, 2020 -- THE EVANGELIST
PUBLISH ONE DAY –Thursday, September 10, 2020-- THE TIMES UNION

**COUNTY OF ALBANY
REQUEST FOR PROPOSALS
BOND COUNSEL
ALBANY COUNTY COMPTROLLER
RFP-2020-108**

RFP DISTRIBUTION- *IMPORTANT NOTICE*

The County of Albany officially distributes RFP documents through the Purchasing Division Office or through the Empire State Bid System website at <http://www.empirestatebidsystem.com>. Copies of RFP documents obtained from any other source are not considered official documents. Only those vendors who obtain proposal documents from either the Purchasing Division Office or the Empire State Bid System are guaranteed to receive addendum information, if such information is issued.

If you have obtained this document from a source other than the Albany County Purchasing Division or the Empire State Bid System, it is strongly recommended that you obtain an official copy.

SECTION 1: PURPOSE

1.1 The County of Albany (“County”) is seeking proposals for “Qualifications and Proposed Fees for Bond Counsel.” The selected firm will serve as Bond Counsel to provide legal advisory services as requested by the Albany County Comptroller, including, but not limited to, the County’s issuance of general obligation debt, including Serial Bonds, Refunding Bonds, Bond Anticipation Notes (BANs), Tax Anticipation Notes (TANs), Revenue Anticipation Notes (RANs), disclosure in connection with the issuance of County obligations, and related tax issues. The selected firm will also be expected to give general advice to the County regarding the issuance of debt by the County.

1.2 The County is seeking to employ bond counsel in connection with capital projects that will require long term financing during the period of five years from the date of the award of the contract.

SECTION 2: RECEIPT OF PROPOSALS

2.1 Five (5) copies, and (1) electronic copy on CD or flash drive, of the Proposal and other required documents must be submitted, sealed in an opaque envelope clearly marked with the name and number of the Proposal and the name and address of the Proposer. Proposals must be received no later than **4:30 P.M. on Friday, September 25, 2020**, at the following address:

Karen A. Storm
Albany County Purchasing Agent
112 State Street, ***Room 1000***
Albany, New York 12207

2.2 The Proposal submitted by the individual Proposer(s) is the document upon which Albany County will make its initial judgment regarding the Proposer’s qualifications, understanding

of the County's scope and objectives, methodology, and ability to complete services under the contract.

- 2.3 Those submitting Proposals do so entirely at their expense. There is no express or implied obligation by Albany County to reimburse any firm or individual for any costs incurred in preparing or submitting Proposals, preparing or submitting additional information requested by the County, or for participating in any selection interviews.
- 2.4 Submission of any Proposal indicates acceptance of the conditions contained in the RFP, unless clearly and specifically noted otherwise in the Proposal.
- 2.5 Albany County reserves the right to reject any and all Proposals, in whole or in part, submitted in response to its RFP.
- 2.6 Albany County reserves the right to waive any and all informalities and to disregard all non-conforming, non-responsive or conditional Proposals.
- 2.7 Albany County may, at any time by written notification to all Proposers, change any portion of the RFP described and detailed herein.
- 2.8 Proposals will be examined and evaluated by the Albany County Comptroller's Office.
- 2.9 During the evaluation of Proposals, the County may require clarification of information or may invite Proposers to an oral presentation to amplify and or validate Proposal contents.

SECTION 3.1: QUALIFICATION OF PROPOSER

Provide a statement of Proposer qualifications including:

- 3.1.1 Provide the name, a brief history and description of your firm.
- 3.1.2 Identify your firm's professional staff members who will be involved in the County engagement and the experience each possesses and the location of the office from which each work.
- 3.1.3 Name and title of person(s) authorized to bind the Proposer, together with the main office address, and telephone number (including area code).
- 3.1.4 Detail your firm's experience with respect to municipal securities, including but not limited to, general obligation debt.
- 3.1.5 Provide at least two (2) references from similar projects including name, addresses and telephone numbers.
- 3.1.6 Provide any additional information that would distinguish your firm in its service to Albany County.

3.1.7 Proposer shall include a completed “Vendor Responsibility Questionnaire” (Attachment “C”) with the Proposal.

SECTION 3.2: EXPERIENCE OF PROPOSERS

3.2.1 Provide a listing of all general obligation bond financings in New York State in which your firm has served as bond counsel during the last three (3) years. Please indicate the name, date and the amount of the issue. The listing should be grouped by size of issue in the following categories:

- \$ 0 - \$ 1 Million
- \$ 1 Million - \$ 9.999 Million
- \$ 10 Million - \$ 49.999 Million
- \$ 50 Million +

3.2.2 Summarize five (5) transactions in the last three (3) years in which you were bond counsel that demonstrates your qualifications to fulfill the duties of this RFP. Please include at least one transaction for a New York issuer (state, locality or public authority). Please provide the issuer’s name, the amount, the date of issue and the exact role played by your firm.

3.2.3 Provide the names of three (3) references from recent financings, including contact names, addresses and telephone numbers. For each reference, please identify the financing(s) in which your firm was involved by issuer name, date of issue, and the role played by your firm.

3.2.4 List all malpractice claims against any of the attorneys in your firm who are listed in response to Section 4.1 and Section 4.3, above, within the last ten (10) years. Briefly describe any action which relates to the duties proposed under this RFP, including but not limited to the identity of claiming entity, amount of claim and nature of claim.

3.2.5 In addition, Albany County may make such investigations it deems necessary to determine the ability of the Proposer to perform the work. The Proposer shall furnish to the County , within five (5) days of a request, all such information and data for this purpose as may be requested. The County reserves the right to reject any Proposal if the information submitted by, or investigation of, such Proposer fails to satisfy the County that such Proposer is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional Proposals will not be accepted.

SECTION 4: SCOPE OF SERVICES

The County of Albany is seeking Bond Counsel to perform legal advisory services as requested by the County. The successful proposer(s) will enter into a contract(s) with the County to perform the following services, as requested. Selection as a successful proposer(s) does not guarantee the assignment of any work to the Proposer.

- 4.1 Analyze legal authority for each bond issue to ensure constitutional, statutory, and regulatory compliance and advise the County as to the selection of the parameters and structure of each bond issue.
- 4.2 Advise the County as to the appropriate steps to validly authorize and issue bonds and work with the County to obtain any required regulatory approvals and to hold any required hearings.
- 4.3 Prepare, review, and deliver all required standard documents and material terms for the issuance of bonds in a timely manner which reserves for the County the opportunity to review and comment upon these documents. The required documents and their material terms include, but are not limited to, the following:
 1. bond resolution;
 2. official statements;
 3. loan agreements and escrow deposit agreements;
 4. documentation relating to tax-exempt status of the bonds;
 5. arbitrage certificates;
 6. closing documentation;
 7. provisions regarding the pledge of, among other things, assets, revenues, or property as security for repayment of bonds;
 8. general terms of the bonds such as medium of payment, date, authentication, and transfer
 9. redemption provisions;
 10. ability to issue additional bonds;
 11. establishment of additional funds, including the debt service fund, and the application thereof;
 12. general covenants of the issuer;
 13. provisions for supplemental or amendatory resolutions;
 14. remedies upon default;
 15. defeasance and discharge of the lien created by the bond resolution;
 16. letters of credit, remarketing agreements, and reimbursement agreements for the implementation of a liquidity facility.
- 4.4 Review and advise the County with regard to the terms of purchase contracts between the County and underwriter(s).
- 4.5 Render legal advice and any legal opinions necessary with regard to the legal issues related to the issuance and sale of bonds, and, when requested, related to arbitrage, rebate and other tax matters, disclosure requirements, securities transactions, or other matters deemed necessary by the County.
- 4.6 Attend meetings as needed and cooperate fully with the County's staff, its financial advisor, and its underwriter in the preparation of any documents and the performance of any other work related to the issuance of bonds on behalf of the County.

4.7 Render any other legal advice and opinions, and perform such other services as may be requested by the County pertaining to public finance, arbitrage and compliance with disclosure and other securities law requirements.

SECTION 5: TERM OF CONTRACT:

5.1 The contract term shall be three (3) years from the date of award;

5.2 At the end of the initial three (3) year contract term the County reserves the right to renew the contract for two (2) additional one-year terms at the sole discretion of Albany County. Renewal of multiple item bid awards shall be contingent upon renewal of all items; partial renewals shall not be accepted by the County.

SECTION 6: COST PROPOSAL:

6.1 Submit a cost proposal for the services described above in Section 4, Scope of Services, and on the Cost Proposal Form included herein.

The County seeks cost proposals which set forth alternative fee arrangements, such as those described below. Proposers are encouraged to present any other alternative fee structures that they are willing to offer. Upon award, the County will select the fee structure(s) to be utilized in the agreement.

6.2.1 Cost proposals must identify, at a minimum, the proposed fee structures for each of the following types of transactions:

I. Projects, including preparation of bond authorization resolutions, resulting in the sale of BANs, TANs or RANs by the County;

II. Projects, including preparation of bond authorization resolutions, resulting in the sale of Serial Bonds; and

III. Projects, including preparation of bond authorization resolutions, resulting in the sale of Refunding Bonds.

6.2.2 All proposals **must include** a statement of your firm's usual and customary hourly billing rates for each of the following categories of staff who would be assigned to this engagement: Partner, Associate, Paralegal, and any other category for which hourly fees would be charged under the contract. For purposes of the Cost Proposal, please assume that the contract for services will be extended for (2) years after the three years of the agreement and state the fees to be charged during each year, if different from year one.

(a) Hourly fee

If your firm is willing to perform any or all of the proposed services at hourly billing rates, please state the hourly rates to be charged for each category of staff assigned to the engagement for each year of the contract, if extended by the County. Fees to be charged in

any year after the first year must be stated as a specific dollar amount; not as a percentage increase. State whether any discount from the usual and customary billing rates will apply, and the amount of any such discount.

If your firm is willing to perform any or all of the proposed services at “blended” hourly billing rates, state the rate(s) that will apply.

(b) Hourly fee with transactional caps.

If your firm is willing to perform any or all of the proposed services at hourly billing rates, with a maximum fee (“cap”) for particular transactions, please state the hourly rates to be charged for each category of staff assigned to the engagement, or the blended rate(s) that will apply, the amount of any transactional cap(s) and the circumstances under which the caps will apply.

(c) Percentage fee

If your firm is willing to perform any or all of the proposed services on a percentage fee basis, please state the proposed percentage fee amounts and the transactions to which they would apply.

(d) Fixed fees

If your firm is willing to perform the proposed services on a fixed fee basis, please state the proposed fixed fee amounts and the transactions to which they would apply.

6.2.3. For each category of service identify all anticipated disbursements and other costs to be passed on to the County by your firm.

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

SECTION 7: PROPOSAL SUBMISSIONS

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

SECTION I:

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

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

SECTION II:

Qualification / Experience - The Qualification / Experience section must address proposer’s qualifications outlined in section 3.1 of this RFP and experience to carry out the

requested service, inclusive of, but not limited to: qualification to do business in NYS, number of years in business and length of experience.

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

SECTION III:

Experience of Proposer: The Experience section must set forth the information required in section 3.2 of this RFP.

References - The References section must include references from similar type projects as required in section 3.2.3 of this RFP.

SECTION IV:

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

SECTION V:

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

SECTION VI:

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

SECTION 8: PROPOSAL EVALUATION

8.1 Proposals will remain valid until the execution of a contract by Albany County, unless otherwise rejected consistent with this RFP.

8.2 Proposals received will be evaluated by a committee with representation from the Albany County Comptroller’s Office. Proposals shall be evaluated based upon the following:

<i>CRITERIA</i>	<i>WEIGHT</i>
Proposer’s Qualifications (Section II of Proposal Submission)	25%
Proposer’s Experience (Section III of the Proposal Submission)	25%
Proposar’s Plan Implementation (Section IV of Proposal Submission)	15%
Cost Proposal (Section V of Proposal Submission)	35%

8.3 Proposals will be examined and evaluated by the Albany County Comptroller with the advice of the Albany County Purchasing Agent to determine whether the requirements of this RFP are met and to make a recommendation to the Albany County Executive, the Albany County Contracts Administration Board or the County Legislature for a contract award.

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

SECTION 9: SECTION NOT IN USE

SECTION 10: ALTERNATIVES

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

SECTION 11: INDEMNIFICATION

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

SECTION 12: SPECIFICATION CLARIFICATION

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

Karen A. Storm
Albany County Purchasing Agent
112 State Street, ***Room 1000***
Albany, NY 12207
Telephone: (518) 447-7140
Facsimile: (518) 447-5588
Email: Karen.storm@albanycountyny.gov

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

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

SECTION 13: MODIFICATION AND WITHDRAWAL OF PROPOSALS

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

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

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

SECTION 14: PROPOSAL SECURITY

14.1 No proposal security is requested for this Proposal.

SECTION 15: INSURANCE AND SECURITY REQUIREMENTS

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

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

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

- (d) **Legal Malpractice Insurance:** A statement by the firm is required indicating that the firm and all of its attorneys are covered by a malpractice insurance policy insuring against the professional liability risks associated with the services to be rendered by the successful proposer. Indicate the name of the insurance carrier and the policy limits

15.2 Each policy of insurance required shall be of form and content satisfactory to the Albany County Attorney:

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

15.3 No work shall be commenced under the contract until the successful Proposer has delivered to the County Purchasing Agent or his designee proof of issuance of all policies of insurance required by the Contract to be procured by the successful Proposer. If at any time, any of said policies shall expire or become unsatisfactory to the County, the successful Proposer shall promptly obtain a new policy and submit proof of insurance of the same to the County for approval. Upon failure of the successful Proposer to furnish, deliver and maintain such insurance as above provided, the contract may, at the election of the County, be forthwith declared suspended, discontinued or terminated. Failure of the successful Proposer to procure and maintain any required insurance, shall not relieve the successful Proposer from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the successful Proposer concerning indemnification.

SECTION 16: REMEDY FOR BREACH

16.1 In the event of a breach by CONTRACTOR, CONTRACTOR shall pay to the COUNTY all direct and consequential damages caused by such breach, including, but not limited to, all sums expended by the COUNTY to procure a substitute contractor to satisfactorily complete the contract work, together with the COUNTY's own costs incurred in procuring a substitute contractor.

SECTION 17: CASH DISCOUNT

17.1 Cash discounts may be offered by a Proposer for prompt payment of bills, but such cash discounts will not be taken into consideration in determining the low Proposer.

17.2 For purposes of any applicable cash discount, the payment date shall be calculated from the receipt of invoice or final acceptance of the goods, whichever is later.

SECTION 18: FREEDOM OF INFORMATION LAW

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

SECTION 19: MACBRIDE PRINCIPLES

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

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

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

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

SECTION 20: SECTION NOT IN USE

SECTION 21: AFFIRMATIVE ACTION REQUIREMENTS

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

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

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

SECTION 22: SECTION NOT IN USE

SECTION 23: INTERPRETATION

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

SECTION 24: NON APPROPRIATIONS CLAUSE

24.1 Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by or are otherwise unavailable to the County for payment under this Agreement. The County will immediately notify the Contractor of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or

expense to the County of any kind whatsoever, except as to those portions herein agreed upon for which funds shall have been appropriated and budgeted.

SECTION 25: IRANIAN ENERGY SECTOR DIVESTMENT

25.1 Contractor/Proposer hereby represents that said Contractor/Proposer is in compliance with New York State General Municipal Law Section 103-g entitled “Iranian Energy Sector Divestment”, in that said Contractor/Proposer has not:

- (a) Provided goods or services of \$20 Million or more in the energy sector of Iran including but not limited to the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or
- (b) Acted as a financial institution and extended \$20 Million or more in credit to another person for forty-five days or more, if that person’s intent was to use the credit to provide goods or services in the energy sector in Iran.

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

25.3 Except as otherwise specifically provided herein, every Contractor/Proposer submitting a bid/proposal in response to this Request for Bids/Request for Proposals must certify and affirm the following under penalties of perjury:

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

Albany County will accept this statement electronically in accordance with the provisions of Section 103 of the General Municipal Law.

25.4 Except as otherwise specifically provided herein, any Bid/Proposal that is submitted without having complied with subdivision (a) above, shall not be considered for award. In any case where the Bidder/Proposer cannot make the certification as set forth in subdivision (a) above, the Bidder/Proposer shall so state and shall furnish with the bid a signed statement setting forth in detail the reasons therefor. The County reserves its rights, in accordance with General Municipal Law Section 103-g to award the Bid/Proposal to any Bidder/Proposer who cannot make the certification, on a case-by-case basis under the following circumstances:

- (1) The investment activities in Iran were made before April 12, 2012, the investment activities in Iran have not been expanded or renewed after April 12, 2012, and the

Bidder/Proposer has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

- (2) The County of Albany has made a determination that the goods or services are necessary for the County to perform its functions and that, absent such an exemption, the County of Albany would be unable to obtain the goods or services for which the Bid/Proposal is offered. Such determination shall be made by the County in writing and shall be a public document.

SECTION 26: SECTION NOT IN USE

SECTION 27: SECTION NOT IN USE

SECTION 28: SECTION NOT IN USE

COUNTY OF ALBANY

PROPOSAL FORM

PROPOSAL IDENTIFICATION:

Title: Bond Counsel
RFP Number: 2020-108

THIS PROPOSAL IS SUBMITTED TO:

Karen A. Storm, Purchasing Agent
Albany County Department of General Services
Purchasing Division
112 State Street, Room 1000
Albany, NY 12207

1. The undersigned Proposer proposes and agrees, if this Proposal is accepted, to enter into a Contract with the owner in the form included in the Contract Documents to complete all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Proposal and in accordance with the Contract Documents.
2. Proposer accepts all of the terms and conditions of the Instructions to Proposers, including without limitation those dealing with the Disposition of Proposal Security. This Proposal may remain open for ninety (90) days after the day of Proposal opening. Proposer will sign the Contract and submit the Contract Security and other documents required by the Contract Documents within fifteen days after the date of County's Notice of Award.
3. In submitting this Proposal, Proposer represents, as more fully set forth in this Contract, that:

- (a) Proposer has examined copies of all the Contract Documents and of the following addenda: (If none, so state)

Date

Number

(receipt of all of which is hereby acknowledges) and also copies of the Notice to Proposers and the Instructions to Proposers;

- (b) Proposer has examined the site and locality where the Work is to be performed, the legal requirements (federal, state and local laws, ordinances, rules and regulations) and the conditions affecting cost, progress or performance of the Work and has made such independent investigations as Proposer deems necessary;

(c) This Proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Proposer has not directly or indirectly induced or solicited any other Proposer to submit a false or sham Proposal; PROPOSER has not solicited or induced any person, firm or a corporation to refrain from Proposing; and Proposer has not sought by collusion to obtain for himself any advantage over any other Proposer or over the owner.

- 4. Proposer will complete the Work for the following prices(s): (Attach Proposal)
- 5. Proposer agrees to commence the Work within the number of calendar days or by the specific date indicated in the Contract. Proposer agrees that the Work will be completed within the number of Calendar days or by the specific date indicated in the contract.
- 6. The following documents are attached to and made a condition of this Proposal:
 - (a) Non-Collusive Bidding Certificate (Attachment "A")
 - (b) Acknowledgment by Bidder (Attachment "B")
 - (c) Vendor Responsibility Questionnaire (Attachment "C")
 - (d) Iranian Energy Divestment Certification (Attachment "D")

7. Communication concerning this Proposal shall be addressed to:

Phone: _____

8. Terms used in this Proposal have the meanings assigned to them in the Contract and General Provisions.

COUNTY OF ALBANY

COST PROPOSAL FORM

PROPOSAL IDENTIFICATION:

Title: Bond Counsel
RFP Number: 2020-108

COMPANY: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

TEL. NO.: _____

FAX NO.: _____

FEDERAL TAX ID NO.: _____

REPRESENTATIVE: _____

E-MAIL: _____

SIGNATURE AND TITLE: _____

DATE: _____

ATTACHMENT "A"
NON-COLLUSIVE BIDDING CERTIFICATE PURSUANT TO
SECTION 103-D OF THE NEW YORK STATE GENERAL MUNICIPAL LAW

A. By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organizations, under penalty of perjury, that to the best of knowledge and belief:

(1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor.

(2) Unless otherwise required by law, the prices which have been quoted in this bid have not knowingly been disclosed by the bidder and will not knowingly be disclosed by the bidder, directly or indirectly, prior to opening, to any bidder or to any competitor.

(3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A bid shall not be considered for award nor shall any award be made where (1), (2), and (3) above have not been complied with; provided, however, that in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons thereof. Where (1), (2), and (3) above have not been complied with, the bid shall not be considered for any award nor shall any award be made unless the head of the Purchasing Unit to the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customer of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of paragraph "A" above.

B. Any bid hereafter made to any political subdivision of the state or any public department, agency or official thereof by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, local law, and where such bid contains the certification referred to in paragraph "A" of this section, shall be deemed to have been authorized by the Board of Directors of the bidder, and such authorization shall be deemed to include the submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation

Signature

Title

Date

Company Name

ATTACHMENT "B"
ACKNOWLEDGMENT BY PROPOSER

If Individual or Individuals:

STATE OF _____)
COUNTY OF _____) SS.:

On this _____ day of _____, 20____, before me personally appeared _____ to me known and known to me to be the same person(s) described in and who executed the within instrument, and he (or they severally) acknowledged to me that he (or they) executed the same.

Notary Public, State of _____
Qualified in _____
Commission Expires _____

If Corporation:

STATE OF _____)
COUNTY OF _____) SS.:

On this _____ day of _____, 20____, before me personally appeared _____ to me known, who, being by me sworn, did say that he resides at (give address) _____; that he is the (give title) _____ of the (name of corporation) _____, the corporation described in and which executed the above instrument; that he knows the seal of the corporation, and that the seal affixed to the instrument is such corporate seal; that it was so affixed by order of the board of directors of the corporation, and that he signed his name thereto by like order.

Notary Public, State of _____
Qualified in _____
Commission Expires _____

If Partnership:

STATE OF _____)
COUNTY OF _____) SS.:

On the _____ day of _____, 20____, before me personally came _____, to me known to be the individual who executed the foregoing, and who, being duly sworn, did depose and say that he / she is a partner of the firm of _____ and that he / she has the authority to sign the same, and acknowledged that he / she executed the same as the act and deed of said partnership.

Notary Public, State of _____
Qualified in _____
Commission Expires _____

**ATTACHMENT “C”
ALBANY COUNTY
VENDOR RESPONSIBILITY QUESTIONNAIRE**

1. VENDOR IS: <input type="checkbox"/> PRIME CONTRACTOR			
2. VENDOR’S LEGAL BUSINESS NAME		3. IDENTIFICATION NUMBERS a) FEIN # b) DUNS #	
4. D/B/A – Doing Business As (if applicable) & COUNTY FIELD:		5. WEBSITE ADDRESS (if applicable)	
6. ADDRESS OF PRIMARY PLACE OF BUSINESS/EXECUTIVE OFFICE		7. TELEPHONE NUMBER	8. FAX NUMBER
9. ADDRESS OF PRIMARY PLACE OF BUSINESS/EXECUTIVE OFFICE <i>IN NEW YORK STATE, if different from above</i>		10. TELEPHONE NUMBER	11. FAX NUMBER
12. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE Name Title Telephone Number Fax Number e-mail			
13. LIST ALL OF THE VENDOR’S PRINCIPAL OWNERS.			
a) NAME	TITLE	b) NAME	TITLE
c) NAME	TITLE	d) NAME	TITLE
A DETAILED EXPLANATION IS REQUIRED FOR EACH QUESTION ANSWERED WITH A “YES,” AND MUST BE PROVIDED AS AN ATTACHMENT TO THE COMPLETED QUESTIONNAIRE. YOU MUST PROVIDE ADEQUATE DETAILS OR DOCUMENTS TO AID THE COUNTY IN MAKING A DETERMINATION OF VENDOR RESPONSIBILITY. PLEASE NUMBER EACH RESPONSE TO MATCH THE QUESTION NUMBER.			
14. DOES THE VENDOR USE, OR HAS IT USED IN THE PAST FIVE (5) YEARS, ANY OTHER BUSINESS NAME, FEIN, or D/B/A OTHER THAN THOSE LISTED IN ITEMS 2-4 ABOVE? List all other business name(s), Federal Employer Identification Number(s) or any D/B/A names and the dates that these names or numbers were/are in use. Explain the relationship to the vendor.		<input type="checkbox"/> Yes <input type="checkbox"/> No	
15. ARE THERE ANY INDIVIDUALS NOW SERVING IN A MANAGERIAL OR CONSULTING CAPACITY TO THE VENDOR, INCLUDING PRINCIPAL OWNERS AND OFFICERS, WHO NOW SERVE OR IN THE PAST ONE (1) YEARS HAVE SERVED AS:		<input type="checkbox"/> Yes <input type="checkbox"/> No	
a) An elected or appointed public official or officer? <i>List each individual’s name, business title, the name of the organization and position elected or appointed to, and dates of service</i>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
b) An officer of any political party organization in Albany County, whether paid or unpaid? <i>List each individual’s name, business title or consulting capacity and the official political position held with applicable service dates.</i>		<input type="checkbox"/> Yes <input type="checkbox"/> No	

16.	<p>WITHIN THE PAST (5) YEARS, HAS THE VENDOR, ANY INDIVIDUALS SERVING IN MANAGERIAL OR CONSULTING CAPACITY, PRINCIPAL OWNERS, OFFICERS, MAJOR STOCKHOLDER(S) (10% OR MORE OF THE VOTING SHARES FOR PUBLICLY TRADED COMPANIES, 25% OR MORE OF THE SHARES FOR ALL OTHER COMPANIES), AFFILIATE OR ANY PERSON INVOLVED IN THE BIDDING OR CONTRACTING PROCESS:</p>	
a)	<ol style="list-style-type: none"> 1. been suspended, debarred or terminated by a local, state or federal authority in connection with a contract or contracting process; 2. been disqualified for cause as a bidder on any permit, license, concession franchise or lease; 3. entered into an agreement to a voluntary exclusion from bidding/contracting; 4. had a bid rejected on an Albany County contract for failure to comply with the MacBride Fair Employment Principles; 5. had a low bid rejected on a local, state or federal contract for failure to meet statutory affirmative action or M/WBE requirements on a previously held contract; 6. had status as a Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise, de-certified, revoked or forfeited; 7. been subject to an administrative proceeding or civil action seeking specific performance or restitution in connection with any local, state or federal government contract; 8. been denied an award of a local, state or federal government contract, had a contract suspended or had a contract terminated for non-responsibility; or 9. had a local, state or federal government contract suspended or terminated for cause prior to the completion of the term of the contract. 	<input type="checkbox"/> Yes <input type="checkbox"/> No
b)	<p>been indicted, convicted, received a judgment against them or a grant of immunity for any business-related conduct constituting a crime under local, state or federal law including but not limited to, fraud extortion, bribery, racketeering, price-fixing, bid collusion or any crime related to truthfulness and/or business conduct?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
c)	<p>been issued a citation, notice, violation order, or are pending an administrative hearing or proceeding or determination of violations of:</p> <ol style="list-style-type: none"> 1. federal, state or local health laws, rules or regulations. 	<input type="checkbox"/> Yes <input type="checkbox"/> No
17.	<p>IN THE PAST THREE (3) YEARS, HAS THE VENDOR OR ITS AFFILIATES 1 HAD ANY CLAIMS, JUDGMENTS, INJUNCTIONS, LIENS, FINES OR PENALTIES SECURED BY ANY GOVERNMENTAL AGENCY? Indicate if this is applicable to the submitting vendor or affiliate. State whether the situation(s) was a claim, judgment, injunction, lien or other with an explanation. Provide the name(s) and address(es) of the agency, the amount of the original obligation and outstanding balance. If any of these items are open, unsatisfied, indicate the status of each item as "open" or "unsatisfied."</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
18.	<p>DURING THE PAST THREE (3) YEARS, HAS THE VENDOR FAILED TO:</p> <ol style="list-style-type: none"> a) file returns or pay any applicable federal, state or city taxes? <i>Identify the taxing jurisdiction, type of tax, liability year(s), and tax liability amount the vendor failed to file/pay and the current status of the liability.</i> b) file returns or pay New York State unemployment insurance? <i>Indicate the years the vendor failed to file/pay the insurance and the current status of the liability.</i> c) Property Tax <i>Indicate the years the vendor failed to file.</i> 	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
19.	<p>HAVE ANY BANKRUPTCY PROCEEDINGS BEEN INITIATED BY OR AGAINST THE VENDOR OR ITS AFFILIATES 1 WITHIN THE PAST SEVEN (7) YEARS (WHETHER OR NOT CLOSED) OR IS ANY BANKRUPTCY PROCEEDING PENDING BY OR AGAINST THE VENDOR OR ITS AFFILIATES REGARDLESS OF THE DATE OF FILING? Indicate if this is applicable to the submitting vendor or affiliate. If it is an affiliate, include the affiliate's name and FEIN. Provide the court name, address and docket number. Indicate if the proceedings have been initiated, remain pending or have been closed. If closed, provide the date closed.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
20.	<p>IS THE VENDOR CURRENTLY INSOLVENT, OR DOES VENDOR CURRENTLY HAVE REASON TO BELIEVE THAT AN INVOLUNTARY BANKRUPTCY PROCEEDING MAY BE BROUGHT AGAINST IT? Provide financial information to support the vendor's current position, for example, Current Ratio, Debt Ratio, Age of Accounts Payable, Cash Flow and any documents that will provide the agency with an understanding of the vendor's situation.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

21. IN THE PAST FIVE (5) YEARS, HAS THE VENDOR OR ANY AFFILIATES¹: Yes No

a) defaulted or been terminated on, or had its surety called upon to complete, any contract (public or private) awarded;

Indicate if this is applicable to the submitting vendor or affiliate. Detail the situation(s) that gave rise to the negative action, any corrective action taken by the vendor and the name of the contracting agency.

¹ “Affiliate” meaning: (a) any entity in which the vendor owns more than 50% of the voting stock; (b) any individual, entity or group of principal owners or officers who own more than 50% of the voting stock of the vendor; or (c) any entity whose voting stock is more than 50% owned by the same individual, entity or group described in clause (b). In addition, if a vendor owns less than 50% of the voting stock of another entity, but directs or has the right to direct such entity’s daily operations, that entity will be an “affiliate” for purposes of this questionnaire.

**ALBANY COUNTY
VENDOR RESPONSIBILITY QUESTIONNAIRE**

FEIN #

State of:)
) ss:
County of:)

CERTIFICATION:

The undersigned: recognizes that this questionnaire is submitted for the express purpose of assisting the County of Albany in making a determination regarding an award of contract or approval of a subcontract; acknowledges that the County may in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine and/or imprisonment of up to five years under 18 USC Section 1001 and may result in contract termination; and states that the information submitted in this questionnaire and any attached pages is true, accurate and complete.

The undersigned certifies that he/she:

- Has not altered the content of the questions in the questionnaire in any manner;
- Has read and understands all of the items contained in the questionnaire and any pages attached by the submitting vendor;
- Has supplied full and complete responses to each item therein to the best of his/her knowledge, information ad belief;
- Is knowledgeable about the submitting vendor's business and operations;
- Understands that Albany County will rely on the information supplied in the questionnaire when entering into a contract with the vendor;
- Is under duty to notify the Albany County Purchasing Division of any material changes to the vendor's responses.

Name of Business

Signature of Owner _____

Address

Printed Name of Signatory _____

City, State, Zip

Title

Sworn before me this ____ day of _____, 20__;

Notary Public

Printed Name

Signature

Date

Attachment "D"
Certification Pursuant to Section 103-g
Of the New York State
General Municipal Law

- A. By submission of this bid/proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the New York State Finance Law.
- B. A Bid/Proposal shall not be considered for award, nor shall any award be made where the condition set forth in Paragraph A above has not been complied with; provided, however, that in any case the bidder/proposer cannot make the foregoing certification set forth in Paragraph A above, the bidder/proposer shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where Paragraph A above cannot be complied with, the Purchasing Unit to the political subdivision, public department, agency or official thereof to which the bid/proposal is made, or his designee, may award a bid/proposal, on a case by case business under the following circumstances:
1. The investment activities in Iran were made before April 12, 2012, the investment activities in Iran have not been expanded or renewed after April 12, 2012, and the Bidder/Proposer has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or
 2. The political subdivision makes a determination that the goods or services are necessary for the political subdivision to perform its functions and that, absent such an exemption, the political subdivision would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

Signature

Title

Date

Company Name

County of Albany
Article SC19- Affirmative Action Plan

STATEMENT OF POLICY

The following is taken from Resolution No. 26 adopted by the Albany County Legislature on June 10, 1996.

Resolved, By the Albany County Legislature that the Affirmative Action Plan so endorsed by the Albany County Executive and which is currently on file with the Clerk of the County Legislature, shall be the official plan of the County of Albany including the objectives, procedures and goals so stipulated.

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

In bidding on this contract, the contractor acknowledges an understanding of this policy. The contractor shall carry out the policy by making every reasonable effort to award contracts and subcontracts to MBEs and WBEs and utilizing minority and women labor in the performance of this contract.

ANTI-DISCRIMINATION CLAUSE 220-E - NYS Labor Law. Provisions in contracts prohibiting discrimination on account of race, creed, color or national origin in employment of citizens upon public works. Every contract for or on behalf of the state or a municipality for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies shall contain provisions by which the contractor with the state or municipality agrees: (a) That in the hiring of employees for the performance of work under this contract or any subcontract hereunder, no contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the state of New York who is qualified and available to perform the work to which the employment relates; (b) That no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, creed, color, disability, sex or national origin; (c) That there may be deducted from the amount payable to the contractor by the state or municipality under this contract a penalty of fifty dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract; (d) That this contract may be cancelled or terminated by the state or municipality, and all moneys due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the contract; and (e) The aforesaid provisions of this section covering every contract for or on behalf of the state or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the state of New York.

ADMINISTRATION

The County's Division of Affirmative Action is charged with the responsibility of monitoring Affirmative Action in all contracts. All County procurements will be made with an understanding that the complete participation of bona fide MBE and WBE shall be assured by balanced and equitable contract involvement.

The **subcontracting participation goals** for County public procurements are:

- to award 7% of the total dollar value of the contract to a certified MBE.
- to award 5% of the total dollar value of the contract to a certified WBE.

The **workforce goals** for County public procurements are as follows:

- 7% of the total workforce should be minorities.
- 5% of the total workforce should be women.

• CONTRACTOR'S RESPONSIBILITIES

The Contractor's responsibilities include, but are not limited to, the following. The Contractor **must:**

- 1) Submit to the Division of Affirmative Action a completed Schedule of MBE/WBE and Labor Performance or Request for Waiver within **fifteen (15) days** of receiving the Notice of Award.
- 2) Prior to being issued a Notice to Proceed, submit evidence of MBE/WBE contracts proposed to the Division of Affirmative Action.
- 3) Submit monthly utilization reports to the Division of Affirmative Action for review.
- 4) Immediately notify the Division of Affirmative Action of any changes during the project, especially if the change affects the Schedule of MBE/WBE and Labor Performance submitted for the project.
- 5) Make good faith efforts to replace an MBE/WBE subcontractor that is unable to perform successfully with another MBE/WBE.
- 6) Notify the Division of Affirmative Action of any suspected instances of companies fraudulently claiming MBE/WBE status.
- 7) If possible, provide any needed technical assistance to MBE/WBE firms under subcontract.
- 8) If possible, design payment schedules to minimize cash flow problems faced by MBEs/WBEs.
- 9) Maintain for three years such records as are necessary to determine compliance with MBE/WBE obligations and to submit regular reports to enable the Albany County MBE Officer to monitor this compliance.

• DEVELOPING A SCHEDULE OF MBE/WBE AND LABOR PERFORMANCE

The Schedule of MBE/WBE and Labor Performance must detail:

1. The contractor's name, address, phone number, federal identification number and the total dollar value of the contract.
2. Whether the contract is a joint venture.
3. The MBE and WBE goal for the contract.
4. A brief description of each proposed subcontractor, including the name, address, phone number, federal identification number and the total dollar amount of each subcontractor.
5. An estimate of the total number of hours to be worked on the project.

• COMPLIANCE

Each contractor must furnish monthly utilization reports while working on the project. The reports must detail the total number of hours worked, total minority /female labor hours and payments made to MBE and WBE firms.

- **WAIVER REQUEST FOR SUBCONTRACTING AND/OR LABOR PERFORMANCE**

Contractors which determine that the subcontracting and/or labor participation goals must cannot be achieved **must** request a waiver within **fifteen (15) days** of receiving the Notice of Award. The request must justify why the firm cannot accomplish the subcontracting and/or labor participation goals established for the project. The justification must detail actions taken to solicit MBE/WBE subcontractors, minority or female labor participation and the impediments encountered. Each waiver request will be evaluated individually. Submission of the request for waiver does **not** guarantee the requirements will be waived. Additional information or supporting documentation may be required to determine a contractor's good faith effort.

- **MBE/WBE RESPONSIBILITIES**

Each Minority Business Enterprise/Woman Business Enterprise shall:

1. Establish through certification that the company is a bona fide MBE/WBE. The Division of Affirmative Action reviews MBE/WBE eligibility status for contractors and subcontractors.
2. Exhibit an interest in bidding a particular project by attending pre-bid conferences and/or by responding timely to contract solicitations for bid quotations prior to bid date.
3. Be responsible for entering into all necessary contractual agreements.
4. Arrange for and supervise contract performance.
5. Secure equipment, materials and crew sufficient to complete their contract or subcontract.
6. Provide bonding, insurance and collateral as required for surety in contract performance.
7. Authorize payrolls, payments and reports as required for routine compliance.

The County will accept MBE/WBE Certifications made by other governmental agencies which are in compliance with our DBE policy.

SANCTIONS

SC-19.5.1

If **CONTRACTOR** cannot meet the WBE/MBE participation goals, he must document to the Albany County MBE Officer, that he has made all positive efforts to achieve it. Failure to meet the goals or to document that all positive efforts have been made to achieve it may result in the County invoking any legal or equitable remedy available to the County for breach of contract including withholding future payments under the **CONTRACT** involved; disqualification of the **CONTRACTOR** from future contracting opportunities for a period not to exceed two years; and cancellation of the contract and declaration of forfeiture of the **PERFORMANCE BOND**.

A decision by the Albany County MBE Officer to invoke the above sanctions shall be issued in writing by registered mail. The **CONTRACTOR** shall have ten (10) days from receipt of the decision to appeal the MBE Officer's decision to the Grievance committee of the Albany County Legislature. Both sides of the dispute shall have the opportunity to be heard at a meeting of the Grievance Committee to be held within ten (10) days of the receipt of an appeal, and the Committee shall send a final decision to both sides within ten (10) days by registered mail (or hand delivery in the case of the MBE Officer's copy).

STANDARDS

A **Minority Business Enterprise (MBE)** shall be any business enterprise which is at least fifty-one percent (51%) owned or in that case of a publicly-owned business, at least fifty-one percent (51%) of the common stock of which is owned, by a minority person(s), and such ownership interest is real, substantial and continuing. The minority ownership must have and exercise the authority to independently control the business decisions of the entity.

A **Woman Business Enterprise (WBE)** shall be any business enterprise which is at least fifty-one percent (51%) owned or in the case of a publicly-owned business, at least fifty-one percent (51%) of the common stock of which is owned, by a woman (women), and such ownership interest is real, substantial and continuing. The woman ownership must have and exercise the authority to independently control the business decisions of the

entity. WBEs shall not be considered as MBEs unless 51% of the assets of the company is held by a minority person(s).

A Disadvantaged Business Enterprise (DBE) mean a business enterprise controlled by one or more socially or economically disadvantaged individuals and whose management and daily business operations are controlled by one or more socially and economically disadvantaged individuals who own it. Such disadvantaged may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to citizens of the United States (or lawfully admitted permanent residents) and who are African Americans, Puerto Ricans, Hispanic Americans, Asian-Pacific Americans, American Indians, Eskimos, Aleuts, Asian Indians and Women.

Minority: A person who is a member of one or more of the following groups:

- A) Black (not of Hispanic origin) – a person having origins in any of the Black racial group of Africa.
- B) Hispanic -- a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- C) Asian or Pacific Islander – a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands and Samoa.
- D) Native American or Alaskan Natives – a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

Woman: A person who is of the feminine gender who are not otherwise classified as a minority.

For assistance or additional information, contact
County of Albany
Division of Affirmative Action
112 State Street, Room 670, Albany, NY 12207
Phone: (518) 447-7010
Fax: (518) 447-5586

County Of Albany
Criteria for Establishing Good Faith Effort

The following list of the good faith efforts criteria complies with NYS Executive Law, Article 15-A which should be considered for determining whether a contractor has documented good faith efforts:

1. Was a completed, acceptable utilization plan submitted in accordance with applicable requirements to meet goals for participation of certified minority and women-owned business enterprises established in the same contract?
2. Were advertisements placed in appropriate trade, general circulation and minority and women-oriented publications in a timely fashion?
3. Were written solicitations made in a timely fashion of certified minority and women-owned business enterprises listed in the directory of certified business?
4. Were timely responses to any such advertisements and solicitations provided by certified minority and women-owned business enterprises?
5. Did the contractor attend pre-bid, pre-award, or other meetings, if any, scheduled by the agency awarding the contract, with certified minority or women-owned business enterprises which the State or County agency determined were capable of performing the contract scope of work, for purposes of complying with goal requirements?
6. What efforts were undertaken by the contractor to reasonably structure the contract scope of work for purposes of subcontracting with certified minority and women-owned business enterprises?
7. How many minority and women-owned business enterprises in the directories of certified businesses could perform work required by the contract scope of work in your region?
8. What actions were taken to contact and assess the financial ability of certified minority and women-owned businesses enterprises to participation on the contract, and which enterprises are located outside of the region in which the contract scope of work was or will be performed?
9. Were relevant plans, specification or terms and conditions of the contract, necessary to prepare an informed response to a contractor solicitation, provided in a timely fashion to certified minority or women-owned business enterprises?
10. What subcontract terms and conditions were offered to certified minority and women-owned business enterprises, and how do those subcontract terms and conditions compare to those offered in the ordinary course of the contractor's business and to other subcontractors of the contractor?
11. Has the contractor made payments for work performed by certified minority and women-owned business enterprises in a timely fashion so as to facilitate continued performance by certified minority or women-owned business enterprises?
12. Has the contractor offered to make up any inability to comply with the minority and women-owned business enterprise goals established in a contract, in other contracts being performed or to be awarded to the contractor?