



**Dormitory Authority State of New York
(DASNY)**

**Design-Build Services for Select
Retail Cannabis Dispensaries**

**Request for Proposal
RFP #7586**

Date: May 13, 2022

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Section 1 - General Information:**1.1 Introduction to Office of Cannabis Management (OCM)**

On March 31, 2021, New York State legalized adult-use cannabis (also known as marijuana, or recreational marijuana) by passing the Marijuana Regulation & Taxation Act (MRTA). This law sets out a framework for the comprehensive regulation of legal, adult use recreational cannabis in New York State in a manner that will protect public health and safety, while promoting social equity and economic development. The MRTA also created the Cannabis Control Board (CCB) to oversee and implement the MRTA. The CCB is authorized to issue licenses and develop regulations for the cultivation, processing, manufacture, distribution, transportation, and sale of medical cannabis, adult-use or “retail” cannabis and cannabinoid hemp in New York State. The CCB, in conjunction with staff of the Office of Cannabis Management (OCM) also oversees the State’s existing Medical Marijuana Program and Cannabinoid Hemp Program, previously regulated by the Department of Health and licenses cultivators, processors, distributors, and dispensaries to grow and sell cannabis in New York.

The CCB and OCM will license cultivators, processors, distributors, and dispensaries to grow and sell cannabis in New York. Additionally, the OCM has been granted the authority to create and regulate a social equity program (“Social Equity Fund Program”) to provide persons harmed by the disproportionate enforcement of the cannabis laws with licenses for the legal sale of cannabis through conditional adult use retail cannabis dispensaries in New York State (“Dispensaries”). Persons selected by the OCM and CCB to receive licenses under the Social Equity Fund Program (“Social Equity Licensees”) will be eligible for funding of their Dispensaries by a private fund, the New York Social Equity Cannabis Investment Fund, LP, (“the “Fund”) to be formed by a private fund sponsor selected by DASNY for the purpose of undertaking the initial build-out of the Dispensaries for operation by the Social Equity Licensees.

1.2 Introduction to New York Social Equity Cannabis Investment Fund, LP

Under the Social Equity Fund program, the Fund is charged, among other things, with: (i) identifying sites throughout the State that will be leased by the Fund to use as Dispensaries; and (ii) undertaking the design, construction and fit out of these leased premises so they satisfy the applicable requirements for Dispensaries (each a “Project” and collectively the “Projects”). The Fund will then sublease these sites to Social Equity Licensees who will be responsible for their operation. Under the Public Authorities Law dispensaries be equitably dispersed across the State. The Fund is authorized to be established pursuant to Part II of Part HH of Chapter 52 of the Laws of 2022 (the “Act”).

The Fund is authorized to accept investments of up to \$200 million for purposes of funding the Projects. A portion of this investment (up to \$50 million) will be invested by the Dormitory Authority of the State of New York (the “Authority”) or a subsidiary thereof in its capacity as a limited partner (the “Public Investment”). The business and affairs of the Partnership will be established and managed by its to-be-identified fund sponsor, general partner and fund manager (collectively, the “Fund Operators”) pursuant to the terms of an investment management agreement (the “IMA”) and the Limited Partnership Agreement (the “Limited Partnership Agreement”) entered into by and between the Partnership and DASNY or a subsidiary thereof.

To undertake the Projects authorized by the Act, the Fund is expected to enter into design-build agreements with the proposers selected pursuant to this Request for Proposals. As is discussed in Section 1.4 below, it is also expected that the Fund will empanel multiple Design-Build Teams across the State based upon the criteria set forth in Section 6.3 of this RFP and that the Projects will be allocated among the selected proposers on based upon the location of the Projects and the selected firms as well as other factors intended to give all empaneled Design-Build Teams, to the extent feasible, the opportunity to work on some of the Projects.

1.3 Introduction to Dormitory Authority of the State of New York

The Authority is a public benefit corporation of the State of New York empowered by Titles 4 and 4-B of the Public Authorities Law (the “Act”), to provide design and project management services, and to issue bonds, notes and other obligations, for a wide variety of public purposes. Under the Act, the Authority provides a multitude of services in various forms in connection with the design, construction and financing of capital facilities for State University of New York, including dormitories and educational facilities; City University of New York Senior Colleges; Community Colleges; Boards of Cooperative Educational Services; cities and counties with respect to court facilities and combined occupancy structures, as defined by law; the Department of Education of the State of New York with respect to certain facilities under its jurisdiction; other State and local governmental entities; independent colleges and universities; facilities for the aged; certain not-for-profit hospitals and nursing homes, as well as a wide variety of other not-for-profit organizations specifically described in the Act.

Pursuant to recent amendment to Public Authority Law (PAL) § 1676(2)(b) and PAL §1680(1), the Authority and any subsidiary thereof was granted the requisite authority to provide, **as agent**, construction and other services to OCM and the Fund.

All references herein to “DASNY” shall mean, as appropriate and as the context requires, the Authority or any subsidiary thereof.

1.4 DASNY as Agent for the Fund

Pursuant to the authority granted to DASNY under the Act, DASNY, as agent for the Fund, is undertaking to prepare or cause to be prepared plans and cost estimates for the construction or reconstruction of Dispensaries for use by Social Equity Licensees and, in its capacity as agent for the Fund, to negotiate and recommend to the Fund, once formed, that it enter into design-build contracts for the design and construction of such facilities. In furtherance of this statutory authorization, it is expected that the Fund and DASNY will enter into a construction manager advisor agreement (the “Construction Manager Advisor Agreement”). This Agreement would obligate DASNY, in its capacity as construction manager advisor, to assist the Fund in selecting qualified proposers under this RFP, provide input to the design-build team during the design process and work with the design-build team to develop and proposed to the Fund a budget and schedule for the project. Upon completion of the design phase, the construction phase would begin and DASNY would be expected to advise the Fund on matters, including but not limited to, the review of change orders, scheduling, payments, and conformance of the work performed with the drawings and specifications.

Proposers should be aware that the Fund (and not DASNY) would be the party entering into the design build contracts with the selected proposers. Moreover, all references to DASNY in this RFP refer to DASNY acting in its capacity as construction fund advisor and agent to the Fund and the Fund will be legally responsible for all determinations made by DASNY in that capacity.

As DASNY will not be an obligated party under the design-build agreements, it assumes no obligations or liability to the design-build team or its subcontractors hereunder or under any design-build agreement executed by the design-build firm and the Fund. Rather, in the event that the design-build firm and its subcontractors seek to make a claim under any design build contract, their sole recourse will be against the Fund.

1.5 Purpose

DASNY, as agent for the Fund, seeks proposals from entities, or a collaboration of entities, capable of providing design, construction, and other identified services necessary to renovate existing spaces to create conditional adult-use cannabis retail dispensary facilities (“RCDs”) for operation by Social Equity Licensees (collectively referred to as the Design-Build Team (“Design-Build Team” or “Team” or “Proposer”)).

To fulfill the obligations of the Fund, the objective of this procurement is to establish zero-dollar based contracts with Design-Build Teams to provide required services to stand-up/fit-out a number of cannabis dispensaries throughout New York State. It is anticipated that approximately 150 dispensaries will need to be completed across the State with the heaviest concentration in the NYC metropolitan area including Long Island and Westchester. Rough approximations in other parts of the State include 20 to 25 in Western New York, 15-20 in the Hudson Valley/Capital District region, 5 to 10 in the North Country, and 5 to 10 in the Southern Tier region of the State. These numbers are included for planning purposes only and may not reflect the final number in each region.

Through this qualifications-based selection, DASNY expects the Fund to contract with multiple Design-Build Teams Statewide. Assignments will be made on a geographic basis. Design-Build Teams are not required to provide services Statewide to qualify for a contract. The term of the contract shall be for a not term to exceed total of four years.

It is the goal of this procurement to provide sufficient coverage for Projects located in all New York State regions and DASNY expects that any of the Design-Build Teams selected through this procurement will be assigned work by the Fund under this contract. Design-Build Teams will be selected to maximize coverage as required to meet the needs of the Fund, on a per region basis. It is anticipated that the work will be distributed equitably amongst the empaneled Design-Build Teams and will be subject to review of the Design-Build Team’s past performance on prior Projects and cost proposal for the Project to be assigned.

It is the intention that the selected Design-Build Teams be requested to provide a lump sum cost proposal to design and construct each adult use retail cannabis dispensary. Selected firms will submit a cost work sheet which will be reviewed for cost reasonableness by DASNY as agent of the Fund. A work order will be issued for each specific Project.

In preparing the proposal, Firms will utilize their knowledge from a site visit, the concept program, the proposed budget provided herein, and if provided, a condition assessment report provided. The design-build agreement will require the Design-Build Team to represent that it has taken the steps necessary to ascertain the nature and location of the work as well as all job site conditions and that the Design-Build Team shall bear the responsibility for bearing the cost and delay risk arising from local and job site conditions (including hazardous materials), except to the extent expressly permitted in the design-build agreement.

The Program is committed to diversity and equal employment opportunities among its contractors, consultants, and vendors. It is the policy of both to maximize opportunities for the participation of Minority-Owned, Women-Owned (M/WBE), and Service-Disabled Veteran-Owned Businesses (SDVOB) firms as bidders, subcontractors, and suppliers on projects. Although no goals for participation in the work by certified M/WBE and SDVOB firms have been established for this program, the selected firms shall use good faith efforts to provide for meaningful participation by M/WBE and SDVOB firms in the work where feasible.

In addition to satisfying other criteria set forth in this Request for Proposal (RFP), each Proposer must demonstrate the following: (i) that a qualified and experienced NYS licensed architect/engineer will be part of the Proposer’s

team, whether as a member of the legal entity comprising the Proposer or as a Subcontractor(as defined in the General Conditions of the attached Contract) of the Proposer, (ii) that a qualified and experienced general contractor will be part of the Proposer’s team, whether as a member of the legal entity comprising the Proposer or as a Subcontractor of the Proposer, (iii) that a qualified licensed engineer or architect registered and authorized to do business in New York State will be part of the Proposer’s team, and (iv) that a qualified licensed engineer or architect will self-certify Authorities Having Jurisdiction (AHJ) applications in NYC.

1.6 Key Events and Dates

<u>Event</u>	<u>Date</u>
Issuance of RFP	05/13/2022
Deadline for RFP Questions*	05/26/2022 (3:00 PM)
Post Responses to RFP Questions*	06/01/2022
Proposal Due Date	06/13/2022 (3:00 PM)
Interviews (not earlier than)	06/20/2022
Notice of Tentative Selection	07/11/2022

*RFP questions are to be submitted through the Design-Build Services for Select Retail Cannabis Dispensaries SharePoint site using the Q&A Tracker provided as an attachment to this RFP. Proposers are to enter questions in the Q&A Tracker excel file provided, save file as: Q&A Tracker-firm name-date, and “Upload” or drag and drop into the folder titled ‘Question Submissions’’. Including the date within the file name will allow proposers to submit more than one Q&A Tracker if needed. The submitted document will remain private and will not be visible to the other proposers throughout the procurement process. Proposers are to request access to the SharePoint site in advance to enter questions. Instructions for accessing the SharePoint site are included in Section 7 - Submission of Proposals. Responses to questions will be periodically posted on the SharePoint site and the DASNY Website during the Q&A period for review by proposing firms. A final record of the questions and associated responses will be posted to the DASNY website on June 1, 2022.

Section 2 - Project Information:

2.1 Potential Scope of Services

The Design-Build Team shall provide complete design and construction services including, but not limited to, the following:

1. Design and construction of cannabis dispensaries in the range of 3000 to 5000 square feet in New York State (All Regions), urban, suburban, and rural settings.
2. Complete and comprehensive design services, including architectural and engineering services.
3. All filing/permitting/licensing/regulatory approval responsibilities.
4. Develop retail store design, product display, and processing area as required.
5. Implementation of applicable systems for all facets of security in accordance with the Concept Program (attached hereto as Attachment 3).
6. Comply with OCM Regulatory Guidelines, in addition to NY State, Municipal and/or NYC regulatory compliance and review as necessary.

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7. May assist with analysis of market conditions, and retail development opportunities.
 8. Adherence to the Concept Program provided as an attachment to the RFP.
 9. Any required demolition work.
 10. Meet scheduling requirements and update schedule progress.
 11. Craft labor services.
 12. Insurance/Bonding
 13. Warranties pursuant to the design-build agreement.
 14. All necessary interaction with the owner of premises in which the Dispensary will be located.

The detailed Scope of Services is included in Appendix A and will be included in the form of the design-build agreement that will be forthcoming and issued through an addendum (the “Proposed Design-Build Agreement”)

The selected Proposers will work directly with DASNY (as agent for the Fund), OCM and its representatives to provide full design and construction services.

The selected Proposers will provide dedicated principal(s) for the resulting engagement(s), who will be the primary point(s) of contact.

2.2 Work

1. The Design-Build Team shall provide all work, services and materials necessary to design and construct the project(s) as contemplated by this RFP and as set forth in the design-build agreement between the Design-Build Team and the Fund (the “Work”), which Work may include, without limitation, the following: all design and engineering services; all demolition, excavation, site remediation, procurement, and construction and commissioning services; all supervision, administration and coordination services; the provision of all drawings, specifications, labor, materials, equipment, supplies, tools, machinery, utilities, fabrication, transportation, insurance, bonds, licenses, tests, inspections, surveys, studies, and other items that are necessary or appropriate for the final and complete design, procurement construction, installation, commissioning, furnishing and equipping of the project(s); and all additional, collateral and incidental work and services required for completion of the project(s) as set forth in the design-build agreement. A more definitive description of the Work to be provided by the Selected Proposer will be set forth in the form of the Proposed Design-Build Agreement to be provided as an addendum.
2. Notwithstanding the foregoing, the following activities will be the responsibility of the Fund: Project funding, site selection, program specifications, and site leasing. The building permit and necessary governmental approvals shall be completed by the local municipalities.
3. The Design-Build Team will be obligated to cooperate with the Fund and, DASNY with respect to all prescribed the duties and responsibilities.

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4. **Standard of Performance.** All Work must be performed with that degree of skill, care, and diligence normally demonstrated by a Design-Build Team performing work and services on projects of a comparable scope, purpose, and magnitude, and in same or similar locality under the same or similar circumstances. The Design-Build Team will be an independent contractor and not an agent or employee of the Fund or DASNY. Neither the Fund nor DASNY shall have any control over or charge of, and shall not be responsible for, construction means, methods, techniques, sequences or procedures, or for safety precautions or programs, in connection with the Work, all of which are the sole responsibility of Design-Build Team pursuant to the Design Build Agreement.

2.3 Qualifications and Certifications

Proposers responding to this RFP must meet the following requirements either directly or as part of the proposed Team:

Qualifications:

- Experience utilizing design build in connection with design and construction of retail space, with preference given to those Proposers with experience in designing and constructing cannabis dispensaries.
- Alternatively, if Proposers do not have direct cannabis dispensary experience, then consideration will be given to those with other retail experience (i.e., banks, jewelry stores, pharmacies, etc.).
- Demonstrated experience providing the services described in this RFP and the Proposed Design Build Agreement.
- Knowledge of applicable codes, rules, and regulations
 - Licensed Professional Engineer with current NYS Registration shall perform all services constituting the practice of engineering in New York State.
- Licensed Architect with current NYS Registration shall perform all services constituting the practice of architecture in New York State.
- Licensed Engineer or Architect qualified to self-certify AHJ applications in NYC.
- Ability to subcontract to sub-consultants, sub-contractors, suppliers, and vendors as necessary.
- Experience developing and maintaining schedules for projects similar in size and complexity.
- Experience providing required services at various phases of the project including planning, design, procurement, construction, and post-construction.

2.4 Applicable Codes, Rules and Regulations

The project shall comply with all applicable codes, rules, and regulations. It is the Design-Build Teams responsibility to ensure compliance.

2.5 Project Permitting

The Construction Permitting Agency for these projects shall be the regional AHJ and/or by local municipalities.

2.6 Project Management Software

Primavera P6™ (current version), or other similar software approved by DASNY, may be utilized as the scheduling tool and Primavera Contract Manager™ (current version) and PMWeb Inc. will be utilized as the management tools to plan, track, and record all project-related schedules, correspondence, submittals, transmittals, meeting minutes, requests for information, daily logs, project costs, change management, and reporting. In addition, DASNY at their option will deploy these systems from available web-based and/or Application Service Provider (ASP) system(s). Firms responding to this RFP shall engage these systems, hereinafter referred to as “The Project Management System”, for all project deliverables. Should any of the above-mentioned software systems be replaced during the term of this engagement, the Firm shall utilize the replacement Project Management Software system for all project deliverables at no additional cost to the Owner.

Section 3 - Content of Technical Proposal:

3.1 Information to be Provided by Proposers

The following is a list of information required to be provided by the Proposer. All RFP responses must be provided in the same order in which requested. The technical proposal must contain sufficient information to assure the Fund and DASNY of its accuracy.

Failure to meet or to provide the required information in this Section 3 may result in a proposal being rejected and a Design-Build Team disqualified from further consideration.

Tab 1. Cover Letter

Include a cover letter with the following items:

- a. The contact name, title, telephone number, and email address of the individual for the Proposer who will serve as DASNY’s primary contact concerning this RFP.
- b. The identities of the primary staff proposed to provide services relating to this RFP.
- c. A statement to the effect that the Proposer is willing to perform all services identified in Section 2.1 above and will abide by the terms of the RFP, including all attachments.
- d. Identification of the Proposer’s main office, other office locations, and the geographical areas in which your Design-Build firm is willing and able to perform the required services. See DASNY Regional Map provided as an attachment.
- e. The submitted proposal must include a statement confirming the proposer is willing and ready to provide any services requested or required in a timely manner.
- f. A statement that the Proposer understands selection does not guarantee that any services will be requested by the Fund from your Design-Build firm.
- g. Signature by the individual(s) authorized to contractually bind the Proposer. Indicate the title or position that the signer holds for the Proposer. DASNY reserves the right to reject a technical proposal that contains an unsigned cover letter. If the Proposer is a joint venture, the proposal shall be signed by the joint venture. Anyone signing the proposal as an agent shall file with it, legal evidence of his or her authority to execute such proposal.
- h. Make representation specified in Tab 5 below.

Tab 2. Organization and Proposed Team Structure

Provide the following information related to the Proposer:

- a. An overview of the Proposer's organization and management structure and an explanation of the means by which the structure will afford DASNY with optimal levels of project management, accountability and compliance with the terms of the Contract.
- b. A chart describing the organizational structure of the Proposer and the intended roles and responsibilities of each member/consultant/contractor.
- c. Resumes of Proposers' and sub-consultants' and sub-contractors' key personnel demonstrating each person's experience and ability to provide the required services to DASNY.
- d. Design-Build Team's prior work experience and track record on relevant and/or comparable programs and projects. Provide examples of (1) relevant and/or comparable projects, (2) executed by the Proposer in relevant and/or comparable regions, areas, and municipalities, and also (3) relevant and/or comparable programs and projects executed in collaboration, including proposed design consultants and contractors., etc. Identify those projects and if applicable, the identity of the entities with which the Proposer collaborated.

Tab 3. Experience and Past Performance

Demonstrate the Proposer and Team's project experience by providing the following:

- a. A description of the Proposer's/Team's recent and relevant experience providing similar services.
- b. A description of the number of cannabis retail dispensaries that the Proposer has provided services for utilizing a design-build delivery method.
- c. A description of the number and brand names for which the Proposer has built cannabis retail dispensaries.
- d. Five (5) project examples, from within the past five (5) years, illustrating the Proposer's design and construction experience working collaboratively in the relevant retail space industry, with specific emphasis on cannabis dispensary where applicable. Experience includes, but is not limited to, relevant retail space utilizing Design-Build delivery systems.

DASNY shall consider the Proposer's ability, experience, and past performance with design-build delivery systems and in providing, managing, and controlling the development, design, engineering, and construction services required to complete a project of similar scope and complexity.

Each project is expected to include, and DASNY will consider, at a minimum, the following with respect to Experience and Past Performance:

- project name, address and Owner;
- The design consultant of record (if other than the Proposer);
- Overall project value;
- The value of the work design and built by the Proposer;
- The timeframe in which the work of the Proposer was performed;
- A summary of the services provided by the Proposer;

- Explanation of challenging, complex, or unique aspects of the projects in relation to the services provided;
- Identification of whether the team or any member thereof has served as the prime or subcontractor/subconsultant on the project;
- Identification of team members involved and their role on the project;
- Description of the relationship with the project team;
- Value of services provided by your firm, sub-consultant(s), and sub-contractor(s);
- Identification of a project contact with knowledge of the services provided by your firm (if different than owner) excluding DASNY employees with their name, title, and phone number.

Note: Where specific details requested above are protected by a Non-Disclosure Agreement, provide as much information as possible and note “confidential information” where applicable.

- c. A minimum of three (3) additional professional references excluding DASNY employees with their name, title, e-mail, and phone number.

Tab 4. Approach and Schedule

Describe the Proposer’s approach to providing the required services by providing the following:

- a. A detailed description of the Proposer’s approach to providing and managing required services and the ability to provide the requested services in a timely and cost-effective manner.
- b. Describe the Proposer’s overall approach in a way that fosters a highly collaborative and effective project team and provides a pathway to cost efficient and timely design and construction. Provide the Proposer’s approach to value engineering, expedited construction, and regulatory approval.
- c. Describe the Proposer’s approach for completing the work. Indicate which portions of the Work the Design-Build Team expects to self-perform and, if so, provide a general description to your approach to complete. For those portions of the Work that are expected to be performed by subcontractors, provide the Design-Build Team’s approach to obtaining subcontracting work, as applicable.
- d. Provide three (3) example schedules from projects in progress or completed within the past 5 years illustrating the appropriate sequencing and detail associated with providing the required services.

Tab 5. Legal Structure

Disclose information regarding the legal structure of the Design-Build entity by providing the following:

- a. Provide current New York registration certificates, as appropriate to perform the Work. Business entities proposing to provide professional engineering services must possess a Certificate of Authorization to provide engineering services in New York State from the State Education Department. Include a copy of this certificate in your response if proposing engineering services. If applicable, each Proposer shall also submit the following:
 - If a closely held corporation (i.e., not publicly traded), a copy of its shareholders agreement.
 - If a limited liability company, a copy of its operating agreement.
 - If a partnership, a copy of its partnership agreement.

- If a joint venture, a copy of its joint venture agreement.

The proposer shall specifically represent that the organizational structure of the Design-Build Team complies with applicable legal and professional licensing requirements, including the provisions of Articles 145, 147 and 148 of the Education Law and regulations/guidance promulgated by the Department of Education and that the Fund will have recourse against the professional liability insurance policy of any architect or engineer providing services on a Project in the event of errors or omissions on the part of such architect or engineer and/or against a project-specific design-build professional liability policy covering the performance of services by the Design-Build Team.

Tab 6. Additional Information

The Proposer must also provide written statements regarding the following:

- a. Agree to provide DASNY with pre- and post-audit access to documents, personnel and other information necessary to conduct audits on request during the term of the Contract and for six years thereafter.
- b. Disclose any potential conflicts of interest (refer to the “Code of Business Ethics - Certification” attached).

Section 4 - Content of Financial Proposal:

4.1 Information to be Provided by Proposers

The following is a list of required information that must be provided by the Proposer. Provide your response in the same order in which it is requested. The financial proposal must contain sufficient information to assure DASNY of its accuracy.

Tab 1. Cover Letter

Include a cover letter with the following items:

- a. The contact name, title, telephone number, fax number and email address for the Proposer who will be DASNY’s primary contact concerning this RFP.
- b. The cover letter must be signed by the individual(s) authorized to contractually bind the Proposer. Indicate the title or position that the signer holds for the Proposer. DASNY reserves the right to reject a cost proposal that contains an unsigned cover letter.

Tab 2. Financial Strength

DASNY will consider the following with respect to each Proposal submitted:

- a. Complete the attached Financial Viability Risk Assessment form for a three (3) year period. The form shall serve as a guide to assess the Design-Build Contractor’s ability to meet its financial obligations under the Contract. DASNY reserves the right to request additional financial information from the Design-Build Team and its principal subconsultants and subcontractors.
- b. Evidence of current and past financial strength and capabilities of the Proposer including, without limitation, references from banking institutions and accounting firms.

- c. Disclosure of any litigation, arbitration or similar proceeding currently pending, or pending at any time during the past five (5) years, against the Proposer and/or its subconsultants or subcontractors with claims exceeding \$100,000.
- d. If the Proposer is a closely-held corporation, limited liability company, partnership or joint venture, the Proposer must provide the foregoing information regarding Financial Strength not only for the Proposer itself but also for each of its shareholders, members, partners or joint venturers, as the case may be.

Tab 3. Insurance Requirements

Provide a statement indicating the Proposer is able to comply with the insurance requirements as listed in the attached Sample Insurance Certificate and Requirements. In addition to those requirements listed, landlords and AHJ's may require additional insurance, as applicable.

Tab 4. Contract Objections

Identify any questions, comments, and objections to the Scope of Services or other provisions contained outlined in the Proposed Design-Build Agreement, for DASNY's review and consideration.

Section 5 – Content of Administrative Proposal:

The following is a list of required information that must be provided by the proposer **as separate, individual electronic files**. The forms must contain sufficient information to assure DASNY of its accuracy.

- a. Proposers shall submit a Vendor Responsibility Questionnaire (“VRQ”) in accordance with Section 12 of this RFP. DASNY requires vendors to file the VRQ online via the New York State VendRep System (the “System”). Proposers must provide a copy of the certification page to DASNY. To enroll in and use the System, see the System Instructions at http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.
- b. A completed Omnibus Certification form included in this RFP as an attachment.
- c. Provide a completed W-9 Form, included in this RFP as an attachment. If the proposer is a joint venture, provide a W-9 in the name of the joint venture and provide a copy of the executed joint venture agreement.
- d. Provide a statement acknowledging the intent to comply with the Performance & Payment Bonding requirements included in this RFP as an attachment.

Section 6 - Evaluation of Proposals:

The selection process will begin with the review and evaluation of each of the written proposals. The purpose of this evaluation process is twofold: (1) to examine the responses for compliance with this RFP; and (2) to identify the complying Teams that have the highest probability of satisfactorily performing the scope of services. The evaluation process will be conducted in a comprehensive and impartial manner. The evaluation will be conducted as set forth herein.

6.1 Preliminary Review

DASNY reserves the right to reject and return to the proposer all proposals received after the RFP due date and time. All proposals will be reviewed to determine if they contain all required submittals specified in Sections 3, 4, and 5. Incomplete proposals may be rejected.

6.2 Preliminary Evaluation

The Design-Build Teams will be selected as a result of a qualifications-based selection. Proposals will undergo a preliminary evaluation process conducted by a Committee selected by DASNY. The Committee will evaluate the proposals based upon the criteria for selection set forth below. Design-Build Teams will be selected to meet the anticipated business needs of the Fund and OCM.

6.3 Criteria for Selection

Each Proposal will be evaluated for competency, completeness and responsiveness based on the Proposer's expertise, the technical and financial qualifications of the Proposer, the responsibility of the Proposer, and the other evaluation criteria established by this RFP, including the ability to meet or exceed the criteria set forth below. The Proposal that is in the overall best interests of the Fund and/or the public, as determined by DASNY in its sole and absolute discretion as agent for the Fund, will be selected and recommended to the Fund for contract execution.

With respect to items 1-5, listed below, DASNY shall consider the following evaluation criteria in accordance with their assigned scoring weight. In addition, while items 6-7 will not be scored as part of the evaluation criteria, DASNY reserves the right to not select any Proposal that either (1) fails to fully disclose all requested information; or (2) discloses information that would cause DASNY to determine that the Proposer should not be selected.

1. **Organization and Proposed Team Structure (20%).** The organizational aspects of the Proposer will be reviewed by DASNY, which shall consider the following:
 - a. Organizational and management structure of the Proposer's organization, and Proposer's explanation of the means by which the structure will afford DASNY with optimal levels of project management, accountability and compliance with the terms of the Contract and New York State law governing the provision of design-build services.
 - b. Proposer's proposed organizational chart describing the Proposer's organizational structure, and the lines of authority and communication.
 - c. A sufficient number of professional and other personnel to perform the Work. Identified key personnel assigned have demonstrated experience and strengths to successfully complete the Work.
2. **Relevant Experience and Past Performance (40%).** The Proposer's previous relevant experience providing services of similar scope and complexity to the Work required by the Fund as described in this RFP. DASNY will specifically evaluate the following:
 - a. The Proposer's ability, experience and past performance with design-build delivery systems in relevant retail space, with specific emphasis on cannabis dispensaries, and in providing, managing and controlling the development, design, engineering and construction services required to

complete a project of a scope and complexity similar to the Project. This includes, but is not limited to, Proposer's project management and organizational experience on large scale public and private development projects. Work on these projects must demonstrate (i) management of design, engineering and construction services, (ii) success in the areas of cost control, on-time completion, safety, and quality of work, and (iii) ability and experience in providing coordination of design and construction services with public agencies, utilities, separate contractors and other outside parties. Consideration will be given where the proposed team has worked together on past projects.

- b. Proposer's past participation, and an integral role, in cannabis dispensaries.
 - c. Proposer's reference and feedback on successful completion of relevant projects.
3. **Approach and Schedule (15%).** The Proposer's approach to providing the scope of services and project schedules will be reviewed by DASNY, which shall consider the following:
- a. The Proposer's approach to providing and managing required services and the ability to provide the requested services in a fast-tracked, expeditious, manner. This includes the Proposer's plan for monitoring the allotment and performance of work to achieve efficient administration of the required services.
 - b. The Proposer's approach fosters a highly collaborative and effective project team and provides a pathway to cost efficient and timely design and construction.
 - c. The Proposer's example project schedule illustrates the appropriate sequencing and the ability to complete the work in an expeditious manner.
4. **Financial Strength (15%).** DASNY will consider the following with respect to each Proposal submitted:
- a. Financial Viability Risk Assessment form of the Proposer for the last three (3) years, such as balance sheets, and profit and loss statements.
 - b. Evidence of current and past financial strength and capabilities of the Proposer including, without limitation, references from banking institutions and accounting firms.
 - c. Disclosure of any litigation, arbitration or similar proceeding currently pending, or pending at any time during the past five (5) years, against the Proposer and/or its Team Members with claims exceeding \$100,000.

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5. **Form of Contract (10%).** DASNY will consider the following with respect to each Proposal submitted:
- a. The nature, extent and commercial reasonableness of the Proposer's objection or exceptions, if any, to the Proposed Design-Build Agreement.

With respect to items 1-5, listed above DASNY shall consider the evaluation criteria in accordance with their assigned scoring weight. In addition, while items 6-7 listed below will not be scored as part of the evaluation criteria, DASNY reserves the right to not select any Proposal that either (1) fails to fully disclose all requested information; or (2) discloses information that would cause DASNY to determine that the Proposer should not be selected.

6. **Responsibility of the Proposer.** DASNY will consider the following with respect to each Proposal submitted:
- a. Proposer's responsiveness and commercial reasonableness to the overall submission requirements of the RFP and responsiveness from the selection committee and/or Designated Representative during the RFP process; and
 - b. Proposer's overall responsibility and/or integrity, including but not limited to the completeness of all responses on the Proposer's Vendor Responsibility.
7. **Insurance Compliance and Monitoring.** DASNY will consider the following with respect to each Proposal submitted.
- a. The Proposer's ability to comply with the insurance requirements outlined in Section 4, Tab 3 of this RFP and as set forth in the Proposed Design-Build Agreement.

DASNY may also consider the past performance of the selected Proposer and its subcontractors, subconsultants,, individuals or entities as applicable on other contracts with DASNY or other entities in terms of quality of work and compliance with performance schedules. DASNY may solicit from departments of the State or City, other government agencies or any other available sources, relevant information concerning the selected Proposer's record of past performance.

By submitting its response to this RFP, each Proposer acknowledges and agrees that it is not entitled, nor is DASNY obligated, to provide any written justification of DASNY's evaluation or qualification of a Proposer pursuant to the process described above.

6.4 Interviews

DASNY reserves the right to determine whether interviews will be necessary. The purpose of the interview is to further document the proposer's ability to provide the required services and to impart to the Committee an understanding of how specific services will be furnished. The proposed lead principal, as well as all other key personnel proposed to provide the services must be present and participate in the interview. No additional information other than the information included in the Respondents response to the RFP, or subsequent information requested by DASNY, will be discussed. Upon the conclusion of interviews, the Committee will finalize their evaluation.

6.5 Final Evaluation

Upon conclusion of the evaluation process, the highest scoring firm(s) will be selected by DASNY for recommendation to the Fund for contract execution.

The award of any contract to a Design-Build Team will be done by the Fund and is there subject to the formation of such Fund.

Section 7 - Submission of Proposals:

7.1 Submission of Technical, Financial, and Administrative Proposal

DASNY will be accepting electronic proposals only. Proposals will be accepted electronically on or before 3:00 pm on June 13, 2022. Follow the directions below to upload your proposal electronically. Any technical issues or questions should be directed to the Designated Representative for the procurement via email prior to the due date of the RFP. **It is strongly encouraged to request access to the site before the due date.** DASNY may not be able to assist proposers with troubleshooting errors if submissions are not made in a timely manner.

1. Email DownstateRFPcoordinator@dasny.org with the subject line: “RFP 7586-Request Access-Firm Name.”
 - a. Provide the name and email address of any additional contacts (if any) from the Proposer that may require access to submit the RFP responses through the Design-Build Services for Select Retail Cannabis Dispensaries SharePoint site.
 - b. Please request access at a minimum of 24 hours in advance and ensure access to the site works correctly.
 - c. Please note that an expression of interest does not qualify as a request for access. Please ensure that the Proposer explicitly requests access using the described procedure.
2. You will receive an email from DownstateRFPcoordinator@dasny.org with a link to a Microsoft SharePoint site: “Design-Build Services for Select Retail Cannabis Dispensaries”
 - a. Please confirm receipt of this email and ability to access the SharePoint site.
3. Click on the link.
 - a. If you have an existing Microsoft account, you will be asked to login and then you will be routed directly to the Design-Build Services for Select Retail Cannabis Dispensaries RFP “Documents” page.
 - b. If you do not have a Microsoft account, you will need to register for a Microsoft account before you can access the link.
4. Upload the following documents to the folder titled “Proposal Submissions”:
 - a. Technical Proposal
 - b. Financial Proposal
 - c. Administrative Proposal (provided as three (3) separate files)
 - i. Vendor Responsibility Certification

- ii. Omnibus Certification
- iii. W-9

All documents must be saved separately in PDF format and labeled as directed below:

- a. Technical Proposal:
 - i. Save file as: Technical Proposal-Proposer name
 - ii. Click “Upload” or drag and drop
 - b. Financial Proposal:
 - i. Save file as: Financial Proposal-Proposer name
 - ii. Click “Upload” or drag and drop
 - c. Administrative Proposal (provided as three (3) separate files):
 - i. Save first file as: VRQ-Proposer name
 - ii. Click “Upload” or drag and drop
 - iii. Save second file as: Omnibus-Proposer name
 - iv. Click “Upload” or drag and drop
 - v. Save third file as W-9-Proposer name
 - vi. Click “Upload” or drag and drop
5. Once your documents are uploaded, DO NOT OPEN. The document submitted must be your final submission and cannot be modified.
- a. If you open your documents after they are submitted, the system will show the file as “modified”.
 - b. The submitted document will remain private and will not be visible to the other proposers throughout the procurement process.
6. The SharePoint site will close at 3:01 PM on June 13, 2022. Any questions or issues on submitting must be addressed to the Designated Representative for the project before that time using the email address in Bullet 1. Please provide enough time to upload all required files.

Section 8 - Important Information Affecting Proposers:

8.1 Proposal Requirements

1. All inquiries regarding this RFP should be addressed to the following Designated Representative:

David Fenichel

Email: DownstateRFPCoordinator@dasny.org

All questions must be submitted into the Question Submissions folder on May 26, 2022 located on the SharePoint site. Proposers should note that all clarifications and exceptions, including those related to the terms and conditions of the contract are to be resolved prior to the submission of a proposal. A list of all substantive inquiries received with relevant responses will be posted on DASNY’s website, www.dasny.org.

2. A proposer may withdraw a proposal anytime prior to the final due date and time by written notification, signed by an authorized agent, to the contact person identified in Section 8.1.1 above. The proposal may thereafter be resubmitted, but not after the final due date and time. Modifications offered in any other manner, oral or written, will not be considered.

3. If a proposer discovers an ambiguity, conflict, discrepancy, omission or other error in this RFP, the proposer should immediately notify the contact person identified in Section 8.1.1 above. Notice of such error or omission should be submitted prior to the final due date and time for submission of proposals. Modifications shall be made by addenda to this RFP. Such clarifications will be given by written notice to all parties who have received this RFP.
4. If a proposer fails, prior to the final due date and time for submission of proposals, to notify DASNY of a known error or an error that reasonably should have been known, the proposer shall assume the risk of proposing. If awarded the contract, the proposer shall not be entitled to additional compensation or time by reason of the error or its late correction.
5. A proposer indicates its acceptance of the provisions and conditions enumerated in this RFP by submitting a proposal.

8.2 DASNY Requirements

1. By submitting a proposal, the proposer covenants that the proposer will not make any claims for or have any right to damages from DASNY or the Fund because of any misinterpretation or misunderstanding of the specifications or because of lack of information.
2. Neither the Fund nor DASNY shall be liable for any cost incurred by the proposer in proposal preparation or in activities related to the review of this RFP or any interview costs.
3. Other than the contact person identified in Section 8.1.1 above, or their designee(s), prospective proposers shall not approach DASNY, the Fund or OCM employees during the period of this RFP process about any matters related to this RFP or any proposals submitted pursuant thereto.

8.3 DASNY Rights and Prerogatives

DASNY reserves the right to exercise the following prerogatives:

1. To accept or reject any or all proposals and amend, modify or withdraw this RFP.
2. To correct any arithmetic errors in the proposals.
3. To change the final due date and time for proposals.
4. To accept or reject any of the Proposer's employees or proposed sub-consultants assigned to provide services on a project assignment and to require their replacement at any time. The proposer shall obtain the written approval of DASNY of changes to the technical proposal after it is submitted, including any changes with respect to sub-consultants. DASNY shall have the right to reject any proposed change to the proposer's technical proposal.
5. To waive or modify any irregularities in proposals received after prior notification to the proposer. This will in no way modify the RFP documents or excuse the proposer from full compliance with its requirements.
6. To request a revised cost proposal from the Proposer's selected as finalists.
7. To accept a proposal for the engagement containing other than the lowest cost proposal.

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8. To interview proposers prior to selection.
 9. To reject any proposal containing false or misleading statements or that provides references that do not support an attribute or condition claimed by the proposer.
 10. To begin negotiations, as agent for the Fund, with the next most responsive proposer to this RFP should DASNY be unsuccessful in negotiating a contract with the selected proposer within a reasonable time frame.
 11. To contract, as agent for the Fund, with more than one Design-Build Team.

8.4 Contractual Requirements

1. Contract

- a. By submitting a proposal, the successful proposer agrees to reference the RFP as part of the resulting contract.
- b. The Fund may award a contract for any or all parts of a proposal and may negotiate contract terms and conditions to meet client program requirements consistent with the RFP.
- c. Award of a contract is subject to contract negotiation and approval of such contract by the Fund

2. Modification of Contract

- a. Any modification to the original contract signed between the successful proposer and DASNY will require the mutual consent of the successful proposer and DASNY.
- b. Any contract or amendments thereto will be considered effective only after approval by the appropriate Fund authorities.

3. Interpretation

- a. The contract shall be construed and interpreted in accordance with the laws of New York State. New York State shall be the forum for disputes.

4. Public Announcements

- a. Upon selection of the successful proposer and contract execution, public announcements or news releases pertaining to the selection shall not be made without prior written consent of DASNY.

Section 9 – Negotiation:

After completion of the selection process, DASNY will commence finalization of the contract scope and fee negotiations with the selected Proposer(s).

Section 10 – Notification:

Upon completion of the selection process, DASNY will notify all Proposers of its decision. Notification will be sent to the primary contact only. Shortly after notification the selected firm(s) will be posted on DASNY's website.

Section 11 – Insurance:

The successful proposer will be required to comply with the Insurance requirements as outlined in the attached sample Insurance Certificates and Requirements and the Proposed Design-Build Agreement.

Section 12 – Vendor Integrity:

The Fund has determined that it will only contract with entities that are determined to be responsive and responsible and said entities are required to maintain responsibility throughout the term of the services being provided. The Vendor Responsibility Questionnaire (“VRQ”) is designed to provide information to assess a proposed vendor’s responsibility to conduct business in New York State. All VRQs shall be reviewed in accordance with applicable law, policy, rules, regulations and guidelines, including without limitation Executive Order Nos. 125, 170.1 and 192.

DASNY requires vendors to file the VRQ online via the New York State VendRep System (the “System”). To enroll in and use the System, see the System Instructions at http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. Proposers must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for System assistance, contact the Office of the State Comptroller’s (“OSC”) Help Desk at 866-370-4672 or 518- 408-4672 or by email at ciohelpdesk@osc.state.ny.us.

Section 13 – Freedom of Information Law and Public Disclosure:

This RFP and all information submitted in response to this RFP constitute “records” subject to disclosure pursuant to the New York State's Freedom of Information Law (Public Officers Law, Article 6, § 84-90, the “FOIL Law” or “FOIL”). FOIL reaffirms the public’s right to know how government operates and requires that DASNY make its records available for public inspection or copying, except to the extent that records or portions thereof fall within one or more grounds for denial set forth in the §87(2) of the FOIL Law.

Should you feel the Proposer’s proposal contains any such trade secrets, other confidential or proprietary information or is otherwise exempt from disclosure pursuant to FOIL, you must submit a request to exclude such information from disclosure. Such request must be in writing, must detail the information that should be exempt from disclosure, and must state the reasons why such information should be excepted from disclosure. DASNY will not honor any attempt, by a Proposer, to omit its entire proposal from disclosure.

Section 14 – New York State Labor Law:

While not deemed public works projects, those Projects implemented under this program will be expected to pay the prevailing rate of wage and supplementals to those employees of the Design-Build Team and its subcontractors and subconsultants who would be entitled to be paid at a prevailing wage rate if this were a public works project. The selected firm(s) shall be responsible for work performed and paid pursuant to prevailing rate of wage and supplementals, the wages paid for a legal day’s work shall be not less than the prevailing rate of wages as defined by NYS Labor Law. The selected firm(s) shall be responsible for obtaining prevailing wage rate updates directly from the NYS Department of Labor, either by accessing its website <http://www.labor.state.ny.us> or a written request to the Bureau of Public Works.

Section 15 – Attachments: