

Town of Colonie
REQUEST FOR PROPOSALS
Sale of Real Property
Stony Creek Reservoir, Clifton Park, NY

SECTION 1: PURPOSE:

The Town of Colonie is seeking proposals for the sale of the Stony Creek Reservoir located in the Town of Clifton Park, County of Saratoga, State of New York.

It is the intent of the Town to enter into a single contract for sale for this property. The Town will not consider selling the property in smaller parcels or in other configurations.

The property is being offered “as is, where is” to all potential buyers.

The Town of Colonie is marketing the property and anticipates selling it to an interested party.

The successful proposal shall be the proposal that is deemed by the Town to offer best value to the Town for this property.

SECTION 2: BACKGROUND:

The sale of the parcel of land that comprises approximately 963 acres of undeveloped land represents an effort by the Town of Colonie to improve its fiscal situation through the sale of expendable assets. Since the reservoir is no longer used as an emergency or backup source of water supply for the Town, the reservoir is now an expendable asset since it is no longer needed as a secondary water source for Town Residents.

IMPORTANT WATER RESTRICTIONS

The property was purchased by the Town of Colonie in approximately 1940, and is subject to the terms of Article 11 of the State of New York Public Health Law and the rules and regulations promulgated thereunder, specifically the regulations found at 10 NYCRR 100.16. A copy of 10 NYCRR 100.16 is attached to this document.

These regulations, added to the New York Code in approximately 1953, are outdated and now unnecessary in the opinion of the Town of Colonie, and the Town of Colonie has commenced discussions with the New York State Department of Health to rescind the regulation. Representatives of the New York State Department of Health have indicated that the Department of Health will support the Town of Colonie’s application to rescind the regulation as proposed by the Town. The New York State Department of Health has also indicated that it will join in signing the contract of sale to allow the proposed unrestricted use of the reservoir to facilitate the sale of the property. This action would allow the proposed unrestricted use of reservoir pending formal rescission of the regulation.

The Town of Colonie will apply to the State of New York to have the regulations rescinded to allow for unrestricted use of the reservoir such as sailing, canoeing, kayaking, row boating, fishing and swimming.

The successful purchaser will acknowledge and agree, however, that the Town of Colonie makes no representations, express or implied, that the State of New York will rescind the regulations found at 10 NYCRR 100.16, and the purchaser agrees that the sale of the property is subject to the terms of the said regulation.

SECTION 3: PROPOSAL SUBMISSION:

An original and five (5) copies of the Proposal and other required documents must be submitted sealed in an opaque envelope clearly marked with the name of the Proposal and the name and address of the person or company submitting the proposal. If the proposal is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "PROPOSAL ENCLOSED" on the face thereof. Persons mailing proposals shall allow sufficient time for delivery. Proposals must be received no later than **2:00 P.M. on Friday March 5, 2021**, at the following address:

Town of Colonie
Attn: Douglas Sippel, General Services Director
534 New Loudon Road
Latham, NY 12110
(518) 783-2726

The Proposals submitted will be the document upon which the Town will make its selection.

Those submitting Proposals do so entirely at their sole cost and expense. There is no express or implied obligation by the Town to reimburse any firm or individual for any costs incurred in preparing or submitting Proposals, preparing or submitting additional information requested by the Town, or for participating in any selection interviews.

Submission of any Proposal indicates acceptance of the conditions contained in the RFP, unless clearly and specifically noted otherwise in the Proposal.

The Town reserves the right to reject any and all Proposals, in whole or in part, submitted in response to its RFP and to withdraw this RFP at any time prior to acceptance.

The Town reserves the right to waive any and all informalities and to disregard all non-conforming, non-responsive or conditional Proposals.

The Town may, at any time by written notification to all proposal holders, change any portion of the RFP described and detailed herein.

Proposals will be examined and evaluated by an Advisory Committee within the Town of Colonie. The Colonie Town Board will make final approval and offer acceptance of the proposal.

During the evaluation of Proposals, the Town may require clarification of information or may invite the proposers to an oral presentation to amplify and/or validate Proposal contents.

All questions concerning this RFP shall be submitted to the person designated in Paragraph 10 in writing. Replies will be issued by Addenda emailed or delivered to all parties recorded as having received this RFP. Questions received less than four (4) days prior to the date of submission of proposals will not be answered. Only questions answered by formal written Addenda will be binding. Oral or other interpretations or clarifications will be without legal effect.

All material submitted in response to this RFP shall become the property of the Town.

SECTION 4: QUALIFICATION OF PURCHASER:

Provide a statement of Purchasers qualifications including:

Name and title of person(s) authorized to bind the Proposer, together with the main address, and telephone number (including area code).

The Town is seeking Proposal from persons financially able to complete the transaction in a timely manner including obtaining any required financing.

The Town may reject multiple proposals from an individual, firm, or corporation under the same or different name, or where one proposer has a financial interest in another that has submitted a proposal.

In addition, the Town may make such investigations it deems necessary to determine the ability of the Proposer to meet the financial obligation of this purchase. The Proposer shall furnish to the Town, within five (5) days of a request, all such information and data for this purpose as may be requested.

The Town reserves the right to reject any Proposal if the information submitted by, or investigation of, such Proposer fails to satisfy the Town that such Proposer is properly qualified to carry out the obligations of the contract. Conditional Proposals will not be accepted.

SECTION 5: SCOPE OF TRANSACTION:

Property Description:

The Stony Creek Reservoir property lies approximately 3200 feet west of Bonneau Road in the Town of Clifton Park, County of Saratoga, State of New York. The parcel comprises an area of approximately 963 acres, including the reservoir, and is irregular in shape. The subject property is accessible from Crescent Road and is approximately two miles west of Exit 8 of the Northway. The property is centrally located in the Capital District and is approximately 20 minutes from downtown Albany to the South and the City of Saratoga Springs to the north. The property is located

approximately 15 minutes from the Global Foundries Chip Fab plant constructed in the Town of Malta.

The Stony Creek Reservoir comprises approximately 365 acres of clear, fresh water of the approximate 963 acres of land that is the subject of this request for proposals. The land is undeveloped and there are cleared dirt drives within the interior of the site. The site contains mature forest growth.

Ingress and egress to the land is available from Bonneau Road, a paved road that narrows to approximately 30 feet wide near the site. The subject property has a level to gentle topography in most areas. At the north end of the property, there are areas of moderate elevation. The western, northern and southern boundaries of the property offer superb views of the Stony Creek Reservoir. There is an extensive amount of water frontage due to the configuration of the parcel of land estimated to exceed 20,000 linear feet. The shores of the reservoir are largely undeveloped because the land has been in public ownership since approximately 1940.

The Stony Creek Reservoir is a manmade body of water created in the early 1950s by constructing a dam along Stony Creek. The reservoir is 10 to 12 feet deep in most areas, but approximately 35 feet deep at certain locations.

As previously noted, the subject property is unimproved, with the exception of a relatively small structure remaining from a prior aviation use which is unused. While there are no other improvements on the property, there is limited electrical service to the site on account of this prior aviation use.

There are mapped New York State Department of Environmental Conservation wetlands and United States Fish and Wildlife wetlands on the site. An aerial photograph showing the approximate boundaries of the subject property is attached.

PROPERTY VISITS

Potential Proposers wishing to visit the property should contact **Douglas Sippel, General Services Director at 518-783-2726** to schedule an appointment. Property visits will only be done by appointment. All visit will begin at the Bonneau Road entrance to the property. No property visits will be scheduled after February 26, 2021.

SECTION 6: CONTRACT AND MINIMUM PRICE:

The minimum acceptable price for the Stony Creek Reservoir will be set at \$5,100,000.00, (U.S. Dollars) not including taxes and other associated costs.

The price is for the unrestricted value of the property.

The Town of Colonie will not consider selling the property in smaller parcels or other configurations.

The successful purchaser will be responsible for the cost of preparing a survey of the 963-acre parcel of land and the cost of preparing a legal description of the property to be conveyed as well as the Town of Colonie's reasonable closing costs.

SECTION 7: PROPOSAL SUBMISSION REQUIREMENTS:

In order for the Town 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 Town's evaluation process:

SECTION I:

Title Page - The title page should reflect the Request for Proposal, Sale of Real Property – Stony Creek Reservoir, name of the Proposer, address, telephone number and contact person.

SECTION II:

Qualification - This section must address Proposer's qualifications and provide details to demonstrate the ability to successfully enter in to this contract.

SECTION III:

Proposal - This section should include the following:

1. An offer in the amount of at least \$5,100,000.00 (US Dollars) and any conditions. This offer is binding.
2. Documentation that you can pay cash or finance the purchase price. Such documentation may include a letter from your banker stating that the bank intends to lend you the necessary capital; a business balance sheet; or any combination of such materials that will assure us that you have the financial resources to complete the purchase.
3. A business and management plan for the Stony Creek Reservoir. Please give a detailed plan and a broad picture of the proposed use of the property by your organization. Please indicate any changes and improvements you envision. We realize that this is a short time frame to come up with this kind of information, but the more information you can provide the better.
4. A description of your qualifications to successfully execute your plan.
5. Any other relevant information that would support the proposal.

SECTION IV:

Mandatory Documentation – This section must include the attached Non-Collusive Bidding Certificate and Iranian Energy Sector Divestment Certification acknowledged by Proposer.

SECTION 8: PROPOSAL EVALUATION:

Proposals will remain valid until the execution of a contract by the Town of Colonie, unless otherwise rejected or withdrawn consistent with this RFP.

Proposals shall be examined and evaluated by an Advisory Committee from the Town of Colonie. The Advisory Committee will include the following: The Town Supervisor, the Town Attorney and the Town Clerk.

The Advisory Committee will review/evaluate proposals from buyers with a focus on the following criteria:

- **Price:** (a) Willingness of the buyer to meet and pay at least the asking price. Although price will be an important consideration, it will not be the deciding factor; and (b) Ability to pay cash at closing and/or proof that all necessary purchase financing has been, or can be, secured.
- **Proposed Use:** The Town of Colonie requests that the prospective purchaser submit as a part of the proposal to purchase a plan describing the intended use of the property. Priority will be given to those proposals where the proposed use of the property is best suited to accomplish the Town of Colonie's goal of using the property for its highest and best use.

AWARD

The Town will review all proposals received. If a satisfactory proposal is determined by the Advisory Committee, their recommendation will be sent to the Colonie Town Board for review. If there are two or more proposals with comparable terms as determined by the Advisory Committee, the Town will notify the parties and a lottery will be held of only those similar proposals.

Formal Town Board action will be necessary to finalize the offer acceptance.

The actual closing date for the sale shall be on a date and time mutually acceptable to all parties.

SECTION 9: INDEMNIFICATION:

The successful Proposer shall defend, indemnify and save harmless the Town, 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 10: SPECIFICATION CLARIFICATION:

All inquiries with respect to this Request for Proposals must be directed to the Town of Colonie General Services Director as follows:

Town of Colonie
Douglas Sippel, General Services Director
534 New Loudon Road
Latham, NY 12110
sippeld@colonie.org

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. Only questions answered by formal written Addenda will be binding.

SECTION 13: MODIFICATION AND WITHDRAWAL OF PROPOSALS:

Proposals may be modified or withdrawn at any time prior to the opening date and time 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.

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

SECTION 14: IRANIAN ENERGY SECTOR DIVESTMENT

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.

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.

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)."

The Town of Colonie will accept this statement electronically in accordance with the provisions of Section 103 of the General Municipal Law.

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

NON-COLLUSION STATEMENT

GENERAL MUNICIPAL LAW

CHAPTER 675 - LAWS OF 1966

Amending 103-d General Municipal Law

"a.) By submission of this proposal, each Vendor and each person signing on behalf of any Vendor, certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

- 1) The prices in this proposal have been arrived at independently without collusion, consultation, communications or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Vendor with any competitor;
- 2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the Vendor and will not knowingly be disclosed by the Vendor prior to opening, directly or indirectly, to any other Vendor or to any competitor; and
- 3) No attempt has been made or will be made by the Vendor to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition."

FIRM

BY

PRINTED NAME

DATE

IRANIAN ENERGY SECTOR DIVESTMENT
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 where 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 therefore. 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

Printed Name

Title

Date

Company

NOTICE TO PROPOSERS

TOWN OF COLONIE
ALBANY COUNTY

REQUEST FOR PROPOSALS

TAKE NOTICE that sealed Proposals shall be received at the General Services Office of Purchasing, Memorial Town Hall, 534 New Loudon Road, Latham, NY 12110 no later than 2:00 P. M. Local Time on Friday, March 5, 2021 at which time they shall be opened and the Proposer's name read aloud for the sale of a real property owned by the Town of Colonie known as the Stony Creek Reservoir located in the Town of Clifton Park, County of Saratoga, State of New York.

Specifications and General Information will be available at the Office of Purchasing after the date of this notice. Complete Request for Proposal documents may be available for download from the Empire State Purchasing Group Internet web site at www.bidnetdirect.com/new-york

Douglas W. Sippel
General Services Director

DATED: January 27, 2021

EXHIBIT "A"

10 NYCRR 100.16

N.Y. Comp. Codes R. & Regs. tit. 10, § 100.16

COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 10. DEPARTMENT OF HEALTH

CHAPTER III. PUBLIC WATER SUPPLIES

SUBCHAPTER A. MUNICIPALITIES, DISTRICTS, COMPANIES, INSTITUTIONS

PART 100. ALBANY COUNTY

DISTRICTS.

Current with amendments included in the New York State Register, Volume

XXXI, Issue 33, dated August 19, 2009.

Section 100.16. Latham Water District, town of Colonie (reservoir)

(a) Application. The following rules and regulations enacted in accordance with the provisions of chapter 45 of the Consolidated Laws (Public Health Law), as finally amended by chapter 879 of the Laws of 1953, and numbered article 11 thereof, shall apply to the reservoir and drainage areas tributary thereto which serve as a source of the public water supply of the Latham Water District in the town of Colonie, Albany County, New York, and to any future reservoirs which may be constructed to serve as part of the source of supply.

(b) Definitions.

(1) The term water supply whenever used in this section refers to the public water supply of the Latham Water District in the town of Colonie, Albany County, New York.

(2) The term reservoir refers to the reservoir on land owned by the Latham Water District in the town of Clifton Park, Saratoga County, New York.

(3) The term tributary refers to Stony Creek or any stream discharging to the reservoir.

(4) The term linear distance refers to the shortest horizontal distance from the nearest point of the structure or object to the tributaries or the high-water mark of the reservoirs.

(c) Human excreta.

(1) No human excreta shall be deposited, thrown or placed or allowed to escape into the reservoir or any tributary.

(2) No human excreta shall be placed or spread upon the surface of the ground at any point on the watershed of the water supply.

(3) No human excreta shall be buried in the soil on the watershed of the water supply unless deposited in trenches or pits at a distance of not less than 300 feet from the reservoir or within 200 feet of any tributary and covered with not less than 12 inches of soil in such a manner as to effectually prevent its being washed over the surface of the ground by rain or melting snow.

(4) No privy or receptacle of any kind for the storage or deposit of human excreta shall be constructed, placed, maintained or allowed to remain within 200 feet of the reservoir or within 100 feet of any tributary, except a properly constructed and operated sewage disposal plant as hereinafter set forth in subdivision (d), provided, however, that the property on which the privy or receptacle is built or is to be built is so located, bounded or otherwise placed that the distance above named can be obtained within the limits of such property.

(5) Every privy or receptacle of any kind for the storage or deposit of human excreta, built or to be built on property which is so located, bounded or otherwise placed that the distance named in paragraph (4) of this subdivision cannot be obtained, shall be placed as far as possible from the reservoir or tributary and especially constructed of concrete, masonry or metal to form a watertight receptacle from which no outward percolation can take place. Where removable watertight containers are provided, they shall be located as far as practicable from the reservoir or any tributary. All privies or receptacles referred to in this paragraph shall be constructed or installed only with the approval and under the supervision of the town board of the town of Colonie acting for, and on behalf of, the Latham Water District.

(d) Sewage. No sewage shall be discharged or allowed to flow into the reservoir or any tributary nor deposited on or beneath the surface of the ground within 300 feet of the reservoir or within 200 feet of any tributary except into watertight receptacles, the contents of which shall be disposed of as provided for by paragraph (3) of subdivision (c). If such watertight receptacles are used, they shall not be located within 100 feet of the reservoir, provided, however, that the property on which the receptacle is built or is to be built is so located, bounded or otherwise placed that the distances above named can be obtained within the limits of the property. In such case, the watertight receptacle shall be constructed and maintained as provided for the [FN1] paragraph (5) of subdivision (c). These restrictions and limiting distances shall not apply to sewage treatment plants installed under and in accordance with plans which first have been submitted to and approved by the State Commissioner of Health and/or the Water Pollution Control Board.

(e) Bath water, wastes. No bath water, sink or laundry wastes or polluted liquid of any kind, except the effluent from a properly constructed and operated sewage treatment plant as hereinbefore provided by subdivision (d), shall be discharged or allowed to flow into the reservoir or any tributary nor be deposited on or beneath the surface of the ground within 100 feet of the reservoir or within 50 feet of any tributary.

(f) Garbage, refuse. No garbage, refuse, putrescible matter, decayed fruits or vegetables, dead animals or parts thereof or any other matter that pollutes water shall be deposited in the reservoir or tributaries nor on or beneath the surface ground within 100 feet of the reservoir or within 50 feet of any tributary nor in such manner that it can be washed by rain, melting snow or otherwise over the surface or through the ground into the reservoir or any tributary.

(g) Swimming. No person or persons shall bathe or swim or be allowed to bathe or swim in the reservoir.

10 NYCRR 100.16, 10 NY ADC 100.16

