



# Request for Proposals (RFP) Market Operator for Clinton Market Collective, the Skyway, and Quackenbush Square

11 Clinton Avenue, Albany, NY

August 2024

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## Opportunity At a Glance

### **Location:**

Clinton Market Collective (“Clinton Market” or “CMC”) is a fully redesigned, newly reopened outdoor market space located at 11 Clinton Avenue, a primary gateway to the Capital City and situated directly across from Quackenbush Square, as well as the Downtown entrance to the half-mile linear park and Riverfront connector known as the Skyway in the City of Albany, New York. CMC, the Skyway, and Quackenbush Square are designed and built to facilitate pop-up retail and public space, with CMC including two shipping container vendor stalls and both venues containing flexible open space that can accommodate a variety of uses and activations.

**Solicitation:** As owners of CMC, Capitalize Albany Corporation (“Capitalize Albany” or “the Corporation”) is seeking proposals from qualified individuals and organizations interested in becoming the Operator (“Operator” or “Respondent”) for Clinton Market Collective. Through a collaboration with the City of Albany and the Albany Parking Authority, Capitalize Albany is able to enhance this solicitation for a CMC Operator by providing the opportunity for qualified respondents to additionally express interest in activating the Skyway and Quackenbush Square Venues.

**Permitted Uses:** Outdoor activities may include, but not be limited to: pop-up and semi-permanent retail, including food, beverages and soft goods; special events including festivals, farmers’ markets and craft fairs; private events including corporate functions, banquets, parties and weddings; and other types of entertainment or outdoor activations such as public art installations, fitness classes, musical or other performances.

**Term:** Initial term of a minimum of (1) year. There is potential for extensions to the term to be considered and negotiated.

## Section 1: Introduction

Capitalize Albany Corporation is seeking proposals from organizations interested in becoming the Operator for the Clinton Market Collective (“CMC”), a new outdoor destination at the heart of a critical gateway into Downtown Albany, New York. In partnership with the City of Albany and the Albany Parking Authority, there is an expanded opportunity for interested parties to engage in a similar capacity with the Albany Skyway, an elevated linear park connection the Hudson Riverfront to Clinton Square, along with Quackenbush Square.

The selected Operator will ideally manage all day-to-day operations of CMC and will work in conjunction with Capitalize Albany to implement the project. This is an opportunity for a creative partner to activate a newly revitalized, privately-owned space functioning primarily as a public plaza. Following this RFP process, Capitalize Albany may enter into an operating agreement with the selected Operator establishing the terms of the partnership.

Given the critical importance of CMC, the Skyway, and Quackenbush Square operating primarily as public spaces and resources, the City of Albany and Capitalize Albany are seeking Operators with proposed uses and/or operating plans that will complement and be consistent with the public character of the Site and will contribute to its development as a community gathering place. Compelling proposals will incorporate the mission, vision and values of Capitalize Albany and the City of Albany. Capitalize Albany reserves the right to reject any proposals that it deems as compromising to the public enjoyment of the site. Capitalize Albany desires Operators that will encourage year-round use and promote uses and activations that extend beyond weekday hours of operation, including evenings and weekends.

## Section 2: Project Background

### **Vision**

CMC will be an inclusive and welcoming outdoor destination and community gathering place featuring public and private events which showcase local entrepreneurs, creators and performers.

### **Mission**

CMC is a community-based economic development initiative that was created with the core mission to increase the vibrancy in the area, generate additional foot traffic throughout Downtown Albany and surrounding neighborhoods, lower barriers for entrepreneurs and create a launch pad for startup and early-stage businesses, as well as a venue for expansion of signature businesses.

### **Background**

The City of Albany, situated on the western bank of the Hudson River, is 21.8 square miles with a diverse population of 99,233 as of the 2020 Census. Albany is the economic and cultural hub of the larger “Capital District,” a metropolitan area with a total population of more than 1.1 million as of 2024.

Redevelopment of 11 Clinton Ave began with the award of a Round III New York State Downtown Revitalization Initiative Grant, which encompassed twelve (12) transformational projects in Albany’s Clinton Square neighborhood. The redevelopment of this underutilized public space into the Clinton Market Collective was made possible by the design and engineering team led by Fuss & O’Neill, as well as the construction manager Tom Wilson & Associates and a construction team led by J.H. Maloy, Inc. Additionally, this project was made possible through the support and investment of Capitalize Albany’s many partners. CMC was funded through the NYS Downtown Revitalization Initiative under NYS Department of State, American Rescue Plan Act funds allocated through the City of Albany’s Albany for All process, Empire State Development, National Grid, and through Capitalize Albany resources.

### **Project Sponsor**

Capitalize Albany Corporation, as owner of the CMC property, is the project sponsor. Capitalize Albany was established in 1979. The mission of the Corporation is “to facilitate strategic economic development and stimulate transformative investment throughout the City of Albany, making New York’s Capital a vibrant place to thrive.” As a catalyst for economic growth, Capitalize Albany facilitates transformational development projects, serving as the City of Albany’s economic development arm. Capitalize Albany is a registered 501(c)(3) not-for-profit organization implementing programs and resources to create, retain, and attract business in the City of Albany. Powered by investors composed of Albany’s community and business leaders, Capitalize Albany manages and coordinates local economic development functions for the City of Albany. More information can be found on the Corporation’s website at [www.capitalizealbany.com](http://www.capitalizealbany.com).

## **Section 3: Site Description**

### **Location**

The CMC site is 0.38± acres bordered by Clinton Avenue on the south, Broadway on the east, North Pearl Street on the west, and the Leo W. O’Brien Federal building on the north. The site is prominently located at a key gateway into the City of Albany with close proximity to Downtown’s commercial corridor. The site connects the 2,800-seat Historic Palace Theatre to the Skyway.

The Skyway is a 0.5-mile elevated linear park including beautiful landscaping along a shared use path that connects Downtown to the Hudson River. The Downtown Skyway entrance is located directly across Broadway from CMC, while the Riverfront entrance connects to the Corning Preserve.

Quackenbush Square is a historic pedestrian corridor located directly across from Clinton Market Collective and situated directly adjacent to the Broadway entrance to the Skyway. The Square is currently home to the Olde English Pub, the Discover Albany Visitors Center, the Irish American Heritage Museum, Common Roots Brewing Company, as well as an ever-expanding collection of public art.

CMC, the Skyway, and Quackenbush Square sit on one of the highest visibility/trafficked corners in Downtown Albany, with approximately 20,000 vehicles entering downtown Albany through Clinton Square every day. The site is also served by eight different bus routes and has seven-day per week bus services. This location is easily accessible from Interstate 787 for those coming from outside of Downtown or the City. Additionally, Albany’s downtown is home to over 2000 residents, and welcomes thousands of employees daily.

### **Design**

CMC and the Skyway have been designed and revitalized to facilitate pop-up retail/public space, through an improved layout and intentional design elements. Combined with Quackenbush Square, the space provides the opportunity to create an entertaining, engaging and flexible space for leisure activities and special events – all while incorporating amenities and functionality/accessibility for all, as well as areas/facilities/structures to locate food trucks and other vendors. The CMC redesign includes an entry plaza, seating and gathering spaces, a shade structure, an ADA accessible walkway, lighting, LED-lit pop jet fountain water feature and native landscaping.

The site includes:

- 2 onsite shipping container vendor stalls (19’x7’x7’) outfitted with three-bay sinks and ventilation hoods and ready to be equipped with water and electrical (110V/60HZ) connections
- 1 onsite shipping container (19.5’x8’x8’) for storage
- Flexible open space that can be used for temporary vending, special events, outdoor farmers’ markets, craft fairs, banquets, weddings, and other community uses, etc. This space can accommodate up to 4 food trucks, including two utility hookups, and/or up to 24 standard (10’x10’) pop-up tents.

## Section 4: Operator

### **Purpose and Intended Outcome of the RFP**

As a strategic priority of the Corporation, Capitalize Albany will maintain oversight of the CMC, Skyway, and Quackenbush Square Operator to ensure that the operations of the facility meet the Corporation's expectations and fulfill the vision and core mission of the project. At the same time, for CMC to be the most successful, it needs a dedicated entity experienced in public market/special events operations to manage its activation and operations. To accomplish this balance of flexible operations with Corporation oversight, CMC and the Skyway are anticipated to maintain their current ownership but will be operated by an independent not-for-profit or for-profit entity. The purpose of this RFP is to identify entities ("Respondents") interested and qualified with sufficient resources and staffing to manage the day-to-day operations of the facility. This may include things such as maintenance, marketing, vendor recruitment, leases, programming, and events. The ideal Respondent would be responsible for overseeing all aspects of the operations of the facility. Upon selection of a respondent, Capitalize Albany may establish an operating agreement with this entity establishing the terms of the partnership and the mechanisms that provide for the Corporation's continued oversight. While the Corporation envisions a single Operator responsible for overseeing all aspects of the operations of the facility, it is understood that there may be qualified Respondents capable of managing a discreet portion of the operations. In addition, Capitalize Albany is actively soliciting for entities to meet basic landscaping and snow removal needs on at least an interim basis. Capitalize Albany is open to negotiating the terms of a given operating agreement dependent on the selected Respondent's qualifications and scope of work.

The ultimate goal is for CMC, the Skyway and Quackenbush Square to be managed by an independent, self-sufficient entity(ies) run by professional staff (and/or volunteers) and overseen by the Corporation through an operating agreement. Balancing independence and flexibility for the Operator while maintaining Corporation oversight will be one of the key aspects of the operating agreement that will be negotiated with review and final approval of the selected Respondent by the Capitalize Albany Board of Directors. For this reason, Capitalize Albany is open to receiving proposals that address some or all of the below-referenced scope of work.

At this time, Capitalize Albany is not offering site-wide exclusive programming rights to the Operator, and the Corporation reserves the right to modify this policy at any time at its sole discretion. The Corporation reserves the right to enter into negotiations with one or more Respondents, to select a single Operator, or to seek a joint venture among more than one Respondent. Furthermore, the Corporation reserves the right to cancel/withdraw/discontinue this RFP at any point and is not obligated to select a Respondent.

### **Operations**

The Respondent's operating model must be financially feasible, allow for cost-effective maintenance and operations, enable the Clinton Market Collective to remain active year-round (to the extent practicable), while simultaneously incorporating diverse, interesting, and interactive uses for the Site. A strong events program will be critical to CMC, the Skyway, and Quackenbush Square both as a revenue stream and to continually encourage foot traffic and build brand awareness. Generally, the Operator will be responsible for all events planning and programming, other than any that Capitalize Albany or the City of Albany approves directly. Capitalize Albany envisions uses such as:

- Immersive and/or site-specific cultural experiences (festivals, exhibits, family events, pop-culture pop-up events)
- Cultural or artistic productions and performances (pop-up or recurring events, concerts, theatrical events)
- Urban Market Activations (retail, food & beverage)

Capitalize Albany is looking for operating plans that include the following:

1. **Broad Appeal.** The proposal should provide a variety of programming that reaches all aspects of the local marketplace, appeals to adults, youth and children, and brings a new level of excitement and vitality to the site.
2. **Hours.** CMC is intended to be open year-round, with vendors open at a minimum of once per week. Where possible, recurring events should have hours that are predictable and stable. In addition to recurring events, Operators are encouraged to include special events/activations such as festivals, cultural or artistic productions, exhibits, etc., at least once per quarter. Greater/more unique/more impactful activation is preferred. CMC is currently open to the public daily from 7 am to dusk; Operators are encouraged to maximize activation during these open hours.
3. **Maintenance and Safety.** CMC must be clean and inviting at all times. As part of this, the Operator must have staff onsite for all events/hours of operations. The Operator will be responsible for regular cleanup/maintenance of the site and for ensuring that the site is clean and safe for the public at all times.
4. **Marketing.** A robust and sustained marketing and communications plan is critical to fulfill the mission of CMC, the Skyway, and Quackenbush Square as vibrant community assets. The Operator will coordinate all public communications about CMC with Capitalize Albany.
5. **Coordination.** In addition to coordinating with Capitalize Albany, the Operator will have the primary responsibility for coordinating the operations of CMC, the Skyway, and Quackenbush Square with other stakeholders as required including the City of Albany, Albany Parking Authority, the Downtown Albany Business Improvement District, relevant neighborhood associations and adjacent businesses.

Capitalize Albany desires CMC, the Skyway, and Quackenbush Square to be self-sustaining and is seeking proposals that do not include management fees paid by Capitalize Albany, the City of Albany or Albany Parking Authority to the Operator. Any proposal that identifies a management fee should also include a pro forma in which the management fee is phased out as a result of the operations becoming self-sustaining. As part of the submission, Respondents are asked to provide an operations model, and proposed compensation structure payable to Capitalize Albany for the licensed use of the Site.

Capitalize Albany will consider any model that makes CMC, the Skyway, and Quackenbush Square viable and fulfills their mission. Capitalize Albany will accept proposals which include a detailed model for shared revenue. Creative, innovative, and unique proposals are strongly encouraged.

#### **Minimum Qualifications**

Any individual, entity, or joint venture, including, but not limited to, for-profit and not-for-profit market managers, developers, institutions, businesses, and government agencies may submit a response to this RFP. In all cases, Respondents must describe how they and their proposed uses and/or operating plans will fulfill the various goals of CMC.

The qualifications of the Respondent shall include, but not be limited to:

1. **Project Development and Organizational Leadership Experience.** Respondents shall have capable and demonstrable experience leading or participating in the financing, development and promotion of new markets, events and/or initiatives. This experience should include knowledge of applicable local, state and federal approval processes, as well as experience in marketing and fundraising or working with public/private partnerships. Respondents shall have a minimum of three (3) years of experience performing or providing services of this type.
2. **Vendor Relations.** Respondents shall have experience working with businesses/vendors of various sizes. Preference will be given for respondents with experience in small business incubation.

3. **Sufficient Resources.** All Respondents shall have sufficient, readily available resources in the form of trained personnel, support services equipment, supplies and financial resources to carry out the work without delay or shortcomings.
4. **Community Ties.** Given the community-oriented nature of CMC, the Skyway, and Quackenbush Square, Respondents with strong connections within the Albany and/or Capital Region business community are preferred.
5. **Legal Authority to Operate.** Located and authorized to do business in the United States.

### **Schedule**

Capitalize Albany is seeking to enter into an operating agreement as early as Fall 2024, with the expectation that CMC will have events programming and activation beginning no later than Spring 2025. Subject to execution of the operating agreement, earlier activation preferred. Respondents should confirm their scope of work can be completed within this time frame.

## Section 5: Submittal Requirements

Submissions should incorporate Capitalize Albany’s and the City of Albany’s vision for CMC, the Skyway, and Quackenbush Square to provide an inclusive and welcoming outdoor destination and community gathering place.

The components outlined below should serve as a guide to the development of proposed services. Respondents should identify which of the following services their firms are qualified and prepared to provide. The Respondent’s submission shall define specific services according to the Respondent’s approach and how said services will be approached.

### **Optional Pre-Submittal Site Visit**

All serious respondents who wish to partake in one of three optional, pre-submittal scouts of the site should contact Andrew Biggane of Capitalize Albany at [development@capitalizealbany.com](mailto:development@capitalizealbany.com).

Dates available for scout:  
Thursday, August 29, 2024 – 9 a.m.  
Thursday, September 5, 2024 – 9 a.m.

Based on an RFP release date of August 20, 2024, respondents shall submit an emailed .pdf copy of their proposal **with an email subject line of “Proposal Enclosed – Clinton Market Collective, Skyway, and Quackenbush Square Market Operator”** no later than **4 p.m. EST Friday, September 20, 2024**, to:

Andrew Biggane  
Capitalize Albany Corporation  
21 Lodge Street  
Albany, New York 12207  
518.434.2532 x22  
[development@capitalizealbany.com](mailto:development@capitalizealbany.com)

All submitted proposals will be held, unopened, until **4:00 p.m. EST, Friday, September 20, 2024**.

**Responses to this RFP must include the following information:**

### **A. Letter of Submittal**

The Respondent's proposal shall contain a cover letter of submittal acknowledging the Respondent's understanding of, and the requirements set forth by this Request for Proposals (RFP). The letter must be signed and dated by a person authorized to legally bind the Respondent to a contractual relationship. The letter should also contain the name and complete contact information for the principal.

### **B. Team Profile, Qualifications and Experience**

The Respondent shall include the following:

1. Information on the Respondent, including the legal name, year entity was established and a brief description. This should include background on the entity's history and mission, its organizational structure and its financial status. If the Respondent is a joint venture or partnership, identify each party to the joint venture or partnership and provide all the required information for each party. Describe in detail the nature of the joint venture or partnership and each party's role, including financial interests and liabilities, operational responsibilities, role in decision-making, and authority to act on behalf of the joint venture or partnership.
2. Names and contact information for Respondent personnel who are anticipated to be assigned to the operating agreement including CEO/Project Principal, Project Manager, other key personnel, support team and sub-Respondents, their role and anticipated time devoted to the project, and a detailed resume listing their individual work experience. Respondents should provide an organizational chart indicating the roles of all individuals involved in this project.
3. Description of the Respondent's experience in successfully executing projects of similar type and scale. Provide information demonstrating the Respondent's ability to implement the proposed operations plan. This includes past or ongoing relevant experience with similar projects, or any experience related to the responsibilities listed above. Describe any past event or venue management experience including, but not limited to, vendor booth arrangement, city permitting, recruiting, retaining, and managing vendors, and managing/operating community events. Indicate where proposed Respondent team members supported each project.

### **C. Project Approach, Scope of Work and Deliverables**

In its proposal, a Respondent should provide a general overview of the proposed operating plan and be as specific as possible in discussing its proposal for the Site. The proposal should specifically address the following:

1. **Proposed Uses.** Each proposal should include a detailed description of the intended use of the Site. This description should include a detailed explanation of the type of programming to be offered and/or directly solicited. Where appropriate, please include a representative list of any comparable venues at which Respondent previously or currently produced similar programming. Please include photos of past, similar uses or renderings as appropriate to better convey the intended programming/event. The proposed uses should be creative, innovative, and engaging, and indicate how the Respondent intends to utilize a variety of programming to make CMC, the Skyway, and Quackenbush Square a thriving community gathering place.
2. **Operations Plan**  
A Respondent must submit a detailed operations plan as part of its RFP response. The operations plan must include:
  - a. **Scope of Work under Operating Agreement**  
For all services the Respondent is seeking to provide, the proposal shall include a detailed scope of work, which provides a description of the Respondent's proposed approach and desired market characteristics, strategy for activation, and a proposed timeline. The Respondent should include a work plan, including all proposed tasks, services and activities



necessary to accomplish the scope of work outlined above and to be included under the proposed operating agreement.

b. **General Operations:**

- **Activation Plan:** Respondent shall include a proposed number of total annual activations, with operations plans that have greater details regarding proposed weekly and monthly activation concepts and schedules generally preferred. Proposals must include details on the proposed hours and days of operation, scale and character of operations.
- **Staffing Plan:** The staffing plan should include job titles, job descriptions, hours per week and proposed staffing levels throughout the week and at special events. The staffing plan should cover the Respondent's proposed scope for operations, marketing and any onsite cleanup/maintenance activities.
- **Vendor Attraction:** Detail your plan to attract new vendors, including the resources to be used and the anticipated fee structure for vendors. Describe the process for vendor eligibility and selection, and how the Respondent will attract and retain vendors. Describe the planned contractual relationship between the Operator and individual Vendors, including the length of the contracts, the basis of payments to the Operator, responsibilities of the Vendors, and the process and criteria for removing Vendors.
- **Marketing and Signage:** The marketing plan should include a detailed description of the Respondent's plan for raising awareness and attracting consumers to CMC, the Skyway and Quackenbush Square. Identify what tools you will use in order to reach the Site's target audience. The plan should also outline all proposed signage, and preferably, concept images of planned signage. Signage is subject to approval by the Corporation.
- **Maintenance:** CMC must be clean and inviting at all times. Please detail a proposed plan for regular maintenance of the site, as well as for prompt and full cleanup of the site following events.
- **Security Plan:** The Operator will be responsible for securing all equipment, goods, and supplies stored onsite, both during and outside of hours of operation. The Corporation is not responsible for any theft, damage or loss to any property to any property of the Operator. Please describe the Respondent's plan for event security, a list of general rules for patrons of CMC and the Skyway, medical response, and emergency evacuation.

**D. Compensation Structure and Pro-forma**

Provide a proposed compensation structure payable to Capitalize Albany for use of the site. This could include revenue-sharing models. The Corporation understands that there may be an initial start-up period before the operations plan becomes profitable. CMC is open to proposals which delay compensation to the Corporation until such time as the site becomes cash flow positive. Negotiation on fee structure may be part of the selection process. In addition to a proposed compensation structure, each Proposal shall include operational pro-forma, including projected expenses and revenues, and an estimate of capital costs associated with both commencing and ceasing operations. The pro-forma should indicate when the operations plan will reach stabilized, self-supporting operations.

**E. References and Quality of Performance History**

The Respondent shall provide a minimum of three (3) professional references with whom the Respondent has previously worked within the past three (3) years and/or can describe such matters as the Respondent's capability to facilitate the proposed operations. Please include the name of the reference entity and a description of the nature of the listed reference's experience, along with the name, title, address, and telephone number of a contact person for the reference.

**F. Minority and Women-owned Business Enterprises (MWBE)**

Minority and Women Owned Business Enterprises (MWBE) are strongly encouraged to apply. Please indicate in the proposal if your entity fits this description.

#### **G. Non-Collusive Bidding Certification**

In accordance with New York State Public Authority Law Section 287, each Respondent is required to complete and submit a “Non-Collusive Bidding Certification” with their proposal. Please find the required form attached to this RFP (see Schedule D).

#### **H. Vendor Responsibility Questionnaire**

Pursuant to State Finance Law §§139-j and 139-k, this request for proposals (“RFP”) includes and imposes certain restrictions on communications between a Vendor and Capitalize Albany Corporation during the procurement process. A Vendor is restricted from making contacts from the earliest notice of intent to solicit offers (in this instance, the release of this RFP) through final award and approval of the resultant contract by Capitalize Albany (“restricted period”) to other than Capitalize Albany designated individuals unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Only email inquiries are allowed. The designated individual for this RFP is Andrew Biggane at [development@capitalizealbany.com](mailto:development@capitalizealbany.com).

Upon selection, for all contracts that equal or exceed \$100,000, the contractor will be required to submit to the State a Vendor Responsibility Questionnaire: For-Profit Business Entity. The questionnaire can be found online at [http://www.osc.state.ny.us/vendrep/forms\\_vendor.htm](http://www.osc.state.ny.us/vendrep/forms_vendor.htm). For any contracts which exceed \$15,000, Capitalize Albany requires the questionnaire to be submitted directly to Capitalize Albany. Capitalize Albany reserves the right to terminate this contract in the event it is found that any information provided by the Vendor in the questionnaire was intentionally false or intentionally incomplete. Upon such finding, the Corporation may terminate the contract by providing written notification to the Vendor in accordance with the written notification terms of the contract.

## **Section 6: Additional Requirements**

#### **A. Principal Contact and Information Requests**

The principal point of contact for all matters relating to this RFP, including any inquiries, is:

Andrew Biggane  
Director of Operations and Finance  
Capitalize Albany Corporation, 21 Lodge Street, Albany, New York 12207  
518.434.2532 x22  
[development@capitalizealbany.com](mailto:development@capitalizealbany.com)

All inquiries regarding the RFP must be submitted in writing to [development@capitalizealbany.com](mailto:development@capitalizealbany.com) **on or before 5 p.m., Monday, September 9, 2024**. No response to inquiries received after this date will be given. Responses to inquiries will be posted to the Capitalize Albany website at [www.capitalizealbany.com](http://www.capitalizealbany.com). Capitalize Albany will respond to all inquiries by no later than **5 p.m., Friday, September 13, 2024**.

An information session is scheduled for **Thursday, August 29, 2024, at 3 p.m. EST**. In order to participate in the information session, an e-mail request must be submitted to [development@capitalizealbany.com](mailto:development@capitalizealbany.com) by **Tuesday, August 27, 2024, at 4 p.m. EST**. This meeting is exclusively for representatives of entities that have a bona fide interest in responding to this RFP. The e-mail request must indicate how the Respondent meets the minimum qualifications described in Section 4 of this RFP.

Details on the informational webinar log-in instructions for the information session will be provided by 12 pm **EST on Thursday, August 29, 2024** to all firms that have registered.

**B. Unnecessarily Elaborate Responses**

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are not desired and may be construed as an indication of the respondent's lack of cost consciousness. Elaborate or expensive artwork, paper, bindings, and visual and other presentations are neither necessary at this time nor desired by the Corporation.

**C. Incomplete Documents**

Each Respondent is responsible for having determined the accuracy and/or completeness of the data upon which it relied in making its proposal and has an affirmative obligation to notify the Corporation immediately upon discovery of an apparent or suspected inaccuracy. If a successful respondent proceeds with any activity that may be affected by an inaccuracy, error in, or omission in the submitted proposal of which it is aware but has not notified the Corporation, that respondent must perform any work described in such missing or incomplete documents at the respondent's sole expense. A Respondent may submit an amended proposal before the deadline for receipt of proposals. Amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the Letter of Transmittal. Capitalize Albany Corporation staff will not merge, collate, or assemble proposal materials.

**D. Rejection of Proposals**

The Corporation reserves the right at its sole discretion to accept or reject any and all proposals in whole or in part, to waive any and all informalities, and to disregard all non-conforming, non-responsive or conditional proposals without penalty.

**E. Costs to Propose**

All costs incurred in the preparation of the submittal and participation in the selection process is the sole responsibility of the Respondent.

**F. Other Reserved Rights**

All information submitted becomes property of Capitalize Albany Corporation. The Corporation reserves the right to issue supplemental information or guidelines relating to the RFP as well as make modifications to the RFP during the proposal preparation period. Once the RFP is submitted, specific staff of the Respondent may not be changed without written notice to and consent of the Corporation. Respondents should note that the Corporation is a local public authority subject to New York State's Freedom of Information Law (FOIL) – Respondents should conspicuously mark any sections of their proposal, which they consider proprietary. The Corporation makes no warranty to Respondents about whether such marked information is not releasable in accordance with FOIL.

The Corporation reserves the rights to select finalists, to seek additional information or revised Proposals, to enter into negotiations with one or more Proposers, to select a single Operator, to seek a joint venture among more than one Operator, to reject all Proposals, to amend this RFP in any way, or to discontinue the operator selection process altogether.

**G. Insurance and Indemnification**

To the fullest extent permitted by law, the Respondent, its agents and assigns, shall defend, indemnify, and hold harmless the Corporation as well as the Corporation's officers, employees and agents, from and against all claims, actions, causes of action, injuries, damages, losses, liabilities, and expenses (including, without

limitation, reasonable attorney's fees and court costs) or other liabilities of any kind and character which arise out of or result from work under this engagement, other than claims for the Corporation's own gross negligence. The indemnification shall survive the expiration or earlier termination of this engagement. Upon selection, the successful Respondent will be required to procure and maintain at its own expense insurance coverage including at minimum: workers' compensation and employer's liability insurance; general liability insurance with limits not less than \$1,000,000; professional malpractice insurance and/or errors and omissions insurance with limits not less than \$5,000,000 issued by an insurer licensed to do business in the State of New York; and automobile liability insurance, all naming the Corporation as additionally insured.

No work shall commence under the contract(s) until the selected Respondent has delivered to the Corporation or its designee proof of issuance of all policies of insurance required by the contract. If at any time, any of said policies shall be or become unsatisfactory to the Corporation, the selected Respondent shall promptly obtain a new policy and submit proof of insurance of the same to the Corporation for approval. Upon failure of the selected proposer to furnish, deliver and maintain such insurance as above provided – and detailed in contract negotiations – the contract may, at the election of the Corporation, be declared suspended, discontinued or terminated. Failure of the selected Respondent to procure and maintain any required insurance shall not relieve the selected Respondent from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the selected Respondent concerning indemnification.

#### **H. Regulatory Approvals & Expenses**

The Operator will be required to obtain and maintain financial responsibility for any and all necessary approvals, permits, and licenses for the lawful operation of the Site and all events at the site. Operator will be required to pay all taxes applicable to its operations at the Site. Operator will be solely responsible for determining the necessity of and subsequently any other additional approvals from any agency such as the Department of State, Department of Health and the State Liquor Authority, the City of Albany, Albany Parking Authority, etc. The Corporation is not responsible for the Operator's failure to obtain any required City of Albany or State approvals or permits.

The Operator shall comply with all City of Albany, State, and Federal requirements to provide safe and accessible opportunities for everyone, including persons with disabilities, as well as all City, State, and Federal laws relating to access for persons with disabilities. The Operator is encouraged to exceed accessibility requirements whenever possible, and not simply provide the minimum level required.

The Operator is prohibited from altering any feature of the Site without Capitalize Albany's written approval.

#### **I. Conditions of Submittal**

Respondents are responsible for reviewing and certifying compliance with the Corporation conditions of submittal. Capitalize Albany Corporation will make no allowance or concession to any Respondent for any alleged misunderstanding of this RFP.

#### **J. Conflicts of Interest**

Neither the Respondents nor any other entity directly engaged by the Respondent shall have other interests which conflict, in reality or perception, with the interests of Capitalize Albany Corporation or the Project. The Respondent shall make written inquiry of all of its vendors, contractors and sub-Respondents concerning the existence of or potential for such conflict. In unusual circumstances, and with full disclosure to Capitalize Albany Corporation of such conflict of interest, the Corporation, in its sole discretion, may grant a written waiver for the particular respondent or a related entity.

#### **K. Additional Information**

The selected Site would be accepted by the Operator in its "as is" condition. Programming can be staged only

within the boundaries of CMC, the Skyway and Quackenbush Square, with planning made in consideration of areas surrounding the site. These include all staging functions: will-call ticketing; queuing; security and ticket-taking; food, beverage, and retail; audience seating or standing area; stage; backstage and back of house operations. With Capitalize Albany approval in advance, vehicles may be left on the Site overnight, provided they fit within the boundaries of the Site. All dedicated restrooms Operator plans to use must also be located within the boundaries of the Site.

## Section 7: Evaluation and Selection Process

### A. Evaluation of Respondent's Proposal

Proposals will be evaluated upon the following five criteria by Capitalize Albany Corporation staff and presented to the Board of Directors:

- **Qualifications and Experience.** The qualifications and experience of the Respondent, including the Respondent's lead entity, other members of the Respondent team, and specific staff assigned to the contract, will be considered. Factors evaluated include but are not limited to: (a) demonstrated experience successfully planning and operating events or markets at venues similar to the Site; (c) professional references for similar work; and (d) resumes.
- **Approach and Capacity.** The proposed approach to the operations plan will be considered to ensure a high-quality experience for patrons. Factors evaluated include but are not limited to: (a) demonstrated capacity through a detailed implementation plan; (b) demonstrated ability to dedicate sufficient organizational resources; (c) plan for marketing and promotions; (d) proposed timeline; and (e) frequency of activation.
- **Alignment with the Mission, Vision and Values.** The proposed uses and plan for operations will be considered to evaluate how it aligns with the Site's vision and mission. Factors evaluated include but are not limited to: (a) extent to which the proposed uses complement and are consistent with the public character of CMC, the Skyway and Quackenbush Square; (b) demonstrated operational impacts, including the potential impacts (both positive and negative) of proposed events on other site usage, operations and the public enjoyment of the Site; and (c) demonstrated understanding of the purpose and goals of CMC and the RFP.
- **Financial Proposal and Feasibility.** The financial feasibility and cost effectiveness of the proposal, including the compensation to be paid to Capitalize Albany by the Respondent, if any, will be considered. Aspects of the proposal to be evaluated include but are not limited to: (a) overall financial feasibility of the proposal; (b) viability and reasonableness of the operating pro-forma; and (c) extent to which the proposal is financially self-sufficient, including sources of funding and fundraising plans, if applicable.
- **Overall Quality and Responsiveness.** Proposals will be reviewed as to their overall quality, including completeness and compliance with the requirements set forth in this RFP. The selection of a Respondent will not be based solely on the amount of fees to be paid by the Respondent. Considerable weight will be given to each of the criteria listed above. Additional weight will be considered in respect to exceptionally creative submissions, at the discretion of the evaluators.

### B. Clarification of Proposal Contents

Corporation staff may contact the Respondent for clarification of any portion of the Respondent's proposal.

### C. Selection

The final selection of the Operator will be made by the Board of Directors of Capitalize Albany Corporation.

#### D. Notification

All Respondents will be notified as to whether they were selected or not selected as eligible to provide services to Capitalize Albany Corporation.

#### E. Operating Agreement

Final approval for selection of a Respondent is tentatively scheduled for **October 22, 2024**. The selected Respondent and the Corporation will negotiate an operating agreement including, but not limited to final scope, work plan, deliverables, and fees. All agreements will follow the Capitalize Albany Corporation procurement policies and guidelines and other relevant legal requirements. The final agreement may also include additional services identified and agreed upon by both parties during the negotiation period. The agreement shall be governed by and construed according to the Laws of the State of New York and any disputes arising from the agreements shall be heard in a court of competent jurisdiction in the State of New York venued in Albany County. If Operator does not comply with the terms of the Operating Agreement, then the Agreement is in default and Capitalize Albany Corporation reserves the right to terminate the Agreement. Any warnings or terminations may be considered in making responsibility determinations with respect to future proposals. Areas of particular focus for the Corporation include: (i) the health and safety of patrons and property, including adequate security and security procedure to prevent illegal activities included but not limited to drug use and underage alcohol consumption, (ii) timely and complete clean-up after events, and (iii) timely payment of any sums payable under the Operating Agreement. Capitalize Albany Corporation also reserves the right to terminate any Operating Agreement pursuant to this RFP for convenience and without default of the Operator, at any time, upon prior notice to Operator. Upon any such termination for convenience, the Corporation's sole liability to the Operator shall be to refund to the Operator, the portion (if any) of any fee previously paid by such Operator allocable to any time period beyond the termination for convenience date established by the Corporation. The Corporation will not be responsible for any other payment to the Operator, including without limitation, any unamortized capital improvement costs of the Operator. The Corporation reserves the right to modify, add or delete any of the above referenced requirements at any time.

For more information on the Corporation's professional services procurement policies, please see the Corporation's policy manual ([www.capitalizealbany.com](http://www.capitalizealbany.com)).

### Section 8: RFP Timeline

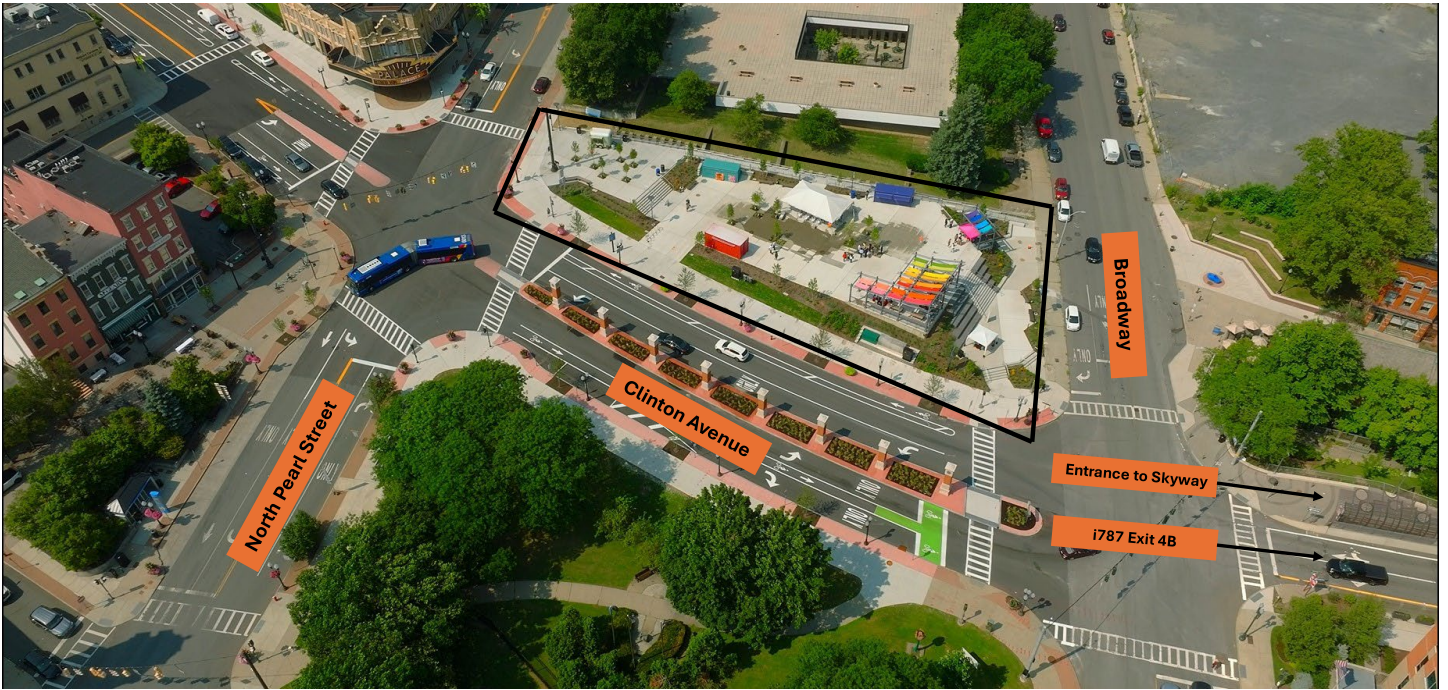
The following project timeline is provided for scheduling information; however, it is subject to change at the discretion of the Corporation:

<u>RFP Issue Date:</u>	August 20, 2024	<u>Conduct Interviews:</u>	September 30-October 4
<u>Webinar Session:</u>	August 29, 2024	<u>Finalists Selected:</u>	October 11
<u>Proposal Submittal Deadline:</u>	September 20, 2024	<u>Board Approval:</u>	October 22
<u>Review Proposals Received:</u>	Week of September 23	<u>Contract Start Date:</u>	TBD

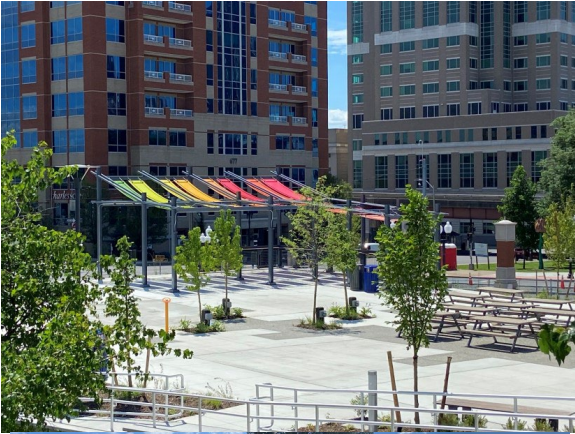
### Section 9: List of Attachments

- Schedule A – Clinton Market Collective Photos
- Schedule B – The Skyway and Broadway Gateway Photos
- Schedule C – Quackenbush Square Photos
- Schedule D – Non-Collusive Bidding Certification

Schedule A —



Schedule A —





Schedule B —





Photos 2 and 3: Best Frame Forward via Albany Center Gallery



Photo: Albany Parking Authority

**NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY  
SECTION 139-D OF THE STATE FINANCE LAW**

SECTION 139-D, Statement of Non-Collusion in bids to the State:

**BY SUBMISSION OF THIS BID, BIDDER AND EACH PERSON SIGNING ON BEHALF OF BIDDER CERTIFIES, AND IN THE CASE OF JOINT BID, EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OF PERJURY, THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF:**

[1] The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes 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 been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and

[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], [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FOREGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:**

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ as the act and deed of said corporation or partnership.

**IF BIDDER(S) (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:**

**NAMES OF PARTNERS OR PRINCIPALS**

**LEGAL RESIDENCE**

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**IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:**

**NAME**

**LEGAL RESIDENCE**

**President:**

**Secretary:**

**Treasurer:**

**President:**

**Secretary:**

**Treasurer:**

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**Schedule D — Non-Collusive Bidding Certification - 3**

**Identifying Data**

Potential Contractor \_\_\_\_\_

Address \_\_\_\_\_

Street

\_\_\_\_\_  
City, Town, etc.

Telephone \_\_\_\_\_

Title \_\_\_\_\_

If applicable, Responsible Corporate Officer

Name \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Joint or combined bids by companies or firms must be certified on behalf of each participant.

\_\_\_\_\_  
Legal name of person, firm or corporation

\_\_\_\_\_  
Legal name of person, firm or corporation

By \_\_\_\_\_

Name

\_\_\_\_\_

Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Address \_\_\_\_\_

Street

Address \_\_\_\_\_

Street

\_\_\_\_\_  
City

State

\_\_\_\_\_  
City

State