

REQUEST FOR PROPOSALS

To Redevelop

The Historic Franklin School Building

925 13th Street NW, Washington, DC
Square 285, Lot 808



Issued by:
The Government of the District of Columbia
Office of the Deputy Mayor for Planning and Economic Development
John A. Wilson Building
1350 Pennsylvania Ave NW, Suite 317
Washington, D.C. 20004
<http://dcbiz.dc.gov/>

Responses due by: January 19, 2010

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1. INTRODUCTION

Great urban centers consist of diverse populations, extensive commercial activity, varied accommodations for visitors, pedestrian-oriented streetscapes, retail within short walking distances, distinctive public spaces, and ubiquitous mass transit. To realize this vision, the Government of the District of Columbia (District) makes properties available for development in order to assist in achieving these goals and improving the quality of life for District of Columbia residents and visitors.

With this vision and these goals in mind, the District, through the Office of the Deputy Mayor for Planning and Economic Development (DMPED), is pleased to issue this Request for Proposals (RFP) inviting qualified development teams (Offerors) to propose their vision and plan for redeveloping the historic Franklin School building located at 925 13th Street NW, Washington, D.C. 20005 (“Franklin School” or “Development Site”).

DMPED, through this RFP, intends to identify one (1) Offeror with whom to enter into negotiations for the disposition/lease and development of the site. The District has a strong preference to enter into a long-term ground lease with the Offeror.

Highly-qualified development teams with experience in planning, financing, building, and operating small to medium scale mixed-use, commercial, hotel, residential, or retail use development projects and experience in working with community stakeholders are strongly encouraged to respond to this RFP.

DMPED expects that the selected Offeror will fully engage local residents and other stakeholders during the process of redeveloping the Franklin School. DMPED also expects that the Offeror will commit to the District’s policy goals of creating contracting and investment opportunities for local, small, and disadvantaged businesses, and jobs for District residents.

The District seeks to maximize the proceeds for the site, and , as such, DMPED encourages Offerors to identify alternative, non-District sources of funding that could be used to fill any funding gaps, if any.

Offers submitted in response to this RFP must comply with all of the requirements set forth herein.

Responses to this RFP are due by January 19, 2009 at 5:00 p.m. Eastern Daylight Time. Responses received after this deadline will not be considered by the District.

2. SITE OVERVIEW

2.1. Site History

Built from 1865-1869, the Franklin School was the flagship school in a group of seven modern urban buildings constructed as the first to house a comprehensive system of free universal public education in the District. The building was the site of Alexander Graham Bell’s photophone experiments in 1876, and housed the City’s first high school in 1880 and administrative headquarters of the District school system from 1928 until 1968. From 1969 until 1990, the building served as an Adult Education Center. Since that time, the building has had a host of uses.

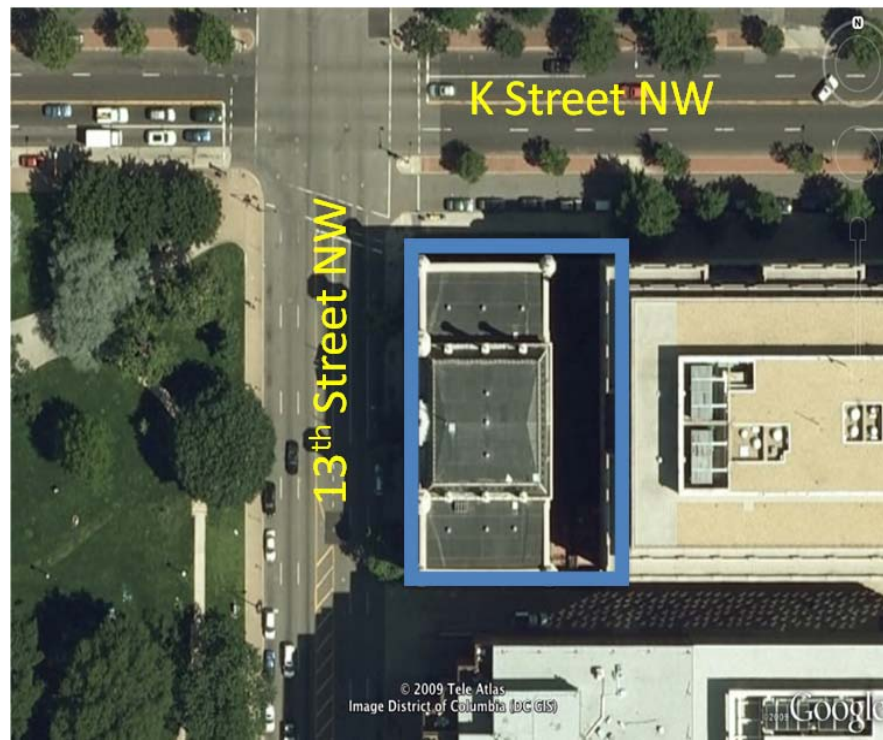
The building itself, a three-and-a-half story masonry building designed by architect Adolf Cluss in an innovative round-arched style known as Rundbogenstil, won numerous international awards for modern public school design. The building is composed of a massive central block with side wings and facades of red brick and limestone. It contains

a polychrome exterior that was fully restored from 1990-1992, turreted octagonal ventilation towers, a patterned mansard roof, and cast iron trim including a bust of Benjamin Franklin, after whom the building is named.

The interior of the building includes central, northern, and southern sections connected by stairways, including a broad twin staircase. The third-story Great Hall is an impressive large space containing the remains of original frescoes in an architectural trompe l'oeil design.

Both the interior and exterior of the building have been declared historic. In 1996, the building was designated a National Historic Landmark (one of only a few District-owned properties to receive such recognition) and received historic designation by the Historic Preservation Review Board shortly thereafter. In the exterior, the historic designation includes the entire structure, while the interior historic designation includes notable features such as the open stairways and stair halls; Great Hall and its musicians gallery; original roof truss system; classroom spaces; arched doorways and transoms; extant original or early trim, including wainscoting and metal work; and tin ceilings at the south end of the second story.

2.2. Site Context



The Franklin School is located in the Central Business District (CBD) in Northwest Washington. The CBD contains many large commercial office buildings, as well as thriving retail, restaurants, and bars. During the past decade, the CBD has seen a dramatic increase in the quality of new and renovated Class A commercial buildings. Many of these structures contain unique design elements, elaborate glass curtain walls,

and have been awarded LEED certification based on extensive sustainable features. The CBD and nearby Penn Quarter have also seen an increase in high-density, multi-family residential buildings, hotels, and increased traffic as a result of the Verizon Center and other nearby entertainment destinations.

The Franklin School is located across the street from Franklin Square, the largest of L’Enfant’s downtown parks. The park, centrally located on K Street between 13th and 14th streets NW and containing a large fountain and tree canopy, creates an inviting environment for area residents and visitors.

2.3. Site Characteristics

The Development Site is located on the southeastern corner of 13th Street, NW and K Street, NW. Site characteristics are summarized below.

Common Street Address:	925 13 th Street NW, Washington DC 20005
Legal Description:	Square 285, Lot 808
Condition:	- Structurally sound and uncompromised brick masonry structure built upon bluestone foundations - Façade is bilaterally symmetrical, three stories high with English basement accommodating steep grade of 13th Street - The building is approximately 148 feet long on 13th Street NW and 79 feet wide on K Street NW, and is bounded by an alley to the south and an eastern rear yard from K Street to the alley
Approximate Size:	14,938 sf lot; approx. 51,000 gross sf building; approx. 38,000 usable sf
Zoning:	DD/C-4
Permissible Uses Under Current Zoning:	Matter of right development for high-density business and retail
Allowable Height Under Current Zoning:	130 feet
Allowable FAR Under Current Zoning:	10.0

It is the Offeror’s responsibility to confirm all zoning requirements, laws, and regulations prior to submission.

Photographs and other relevant information for the Franklin School are included in a separate Appendix to this RFP.

2.4. Access and Visibility

The location of the Development Site offers excellent automobile and mass transit access. The surrounding streets are dominated by large commercial buildings, and the existence of Franklin Square offers a pedestrian oasis in the midst of massive commercial development.

K Street NW, a highly-trafficked east-west avenue, is the District's premiere commercial corridor for businesses, law firms, and lobbying firms. This well-known avenue is a central amenity considered to be a first-class destination. 13th Street NW, another highly-trafficked arterial, connects commercial and residential neighborhoods in the District and extends to the northern tip of the District.

With regard to mass transit options, the McPherson Square and Metro Center Metrorail stations are within several blocks of the Development Site, and major bus lines connect the Development Site to the District's other commercial corridors and residential neighborhoods.

The Development Site has convenient access to thriving retail corridors in Penn Quarter (approximately 0.5 miles to the southeast), the U Street Corridor (about 1 mile to the north), and the Columbia Heights neighborhood (approximately 2.5 miles to the north).

2.5. Zoning and Land Use Guidance

The buildings surrounding the Franklin School are zoned DD/C-4, which permits matter-of-right development for high-density business and retail, and includes a mix of employment, retail, office, cultural, and entertainment centers. The zoning permits by right development of 10.0 FAR with heights of up to one-hundred and thirty (130) feet.

The historic status of the building will likely limit vertical development above the building. However, the use of some of the rear yard to provide modern core facilities is expected.

Incentives such as Transferable Development Rights (TDR) exist for preservation of historic buildings, and may be available for the Franklin School site.

Offerors may propose to develop the site to conform to the existing zoning designation or to apply for a zoning variance, special exception or Planned Unit Development (PUD). Offerors will be expected to be responsible for all costs associated with obtaining the PUD.

The development plan must be consistent with the goals and priorities outlined in the District Elements of the Comprehensive Plan for the National Capital.

For all inquiries concerning zoning, please contact Jennifer Steingasser in the DC Office of Planning:

Jennifer Steingasser, AICP
Deputy Director, Development Review and Historic Preservation
DC Office of Planning
2000 14th Street, NW, 4th Floor Washington DC 20009
(o) 202-442-7600
(f) 202-442-7637
Jennnifer.Steingasser@dc.gov
<http://planning.dc.gov>

2.6 Historic Reviews

The development of the Franklin School site will be subject to requirements under the “*Historic Landmark and Historic District Protection Act of 1978*” (as amended) and other applicable federal and District laws, which may involve consultation with the District of Columbia State Historic Preservation Office, federal Advisory Council on Historic Preservation, review by the Mayor’s agent for historic preservation, and others. For all inquiries concerning historic review of either the exterior or interior of the building, please contact David Maloney in the DC Office of Planning:

David Maloney
State Historic Preservation Officer
DC Office of Planning
2000 14th Street NW, 4th Floor Washington, D.C. 20009
(o) 202-442-7600
(f) (202) 741-5246
David.Maloney@dc.gov
<http://planning.dc.gov>

3. PROPOSAL REQUIREMENTS

DMPED generally will not consider any proposal that is not “Responsive” within the meaning of this RFP (as provided in this Section).

A Responsive proposal must contain the following components:

3.1. Format

All proposals must meet the following format requirements:

- 3.1.1. Proposals shall be prepared on standard 8½” x 11” letter-size paper, bound length-wise, with tabs to separate sections;
- 3.1.2. Proposals must respond to each RFP item in the order outlined in the RFP. Each item must be marked by tabs to indicate the section number;
- 3.1.3. Proposals must not exceed twenty-five (25) pages excluding appendices;
- 3.1.4. Ten (10) copies of each proposal must be delivered to DMPED to the attention of the authorized representative listed in Section 5.3; and
- 3.1.5. Proposals must include Solicitation Response Deposit (“deposit”) in the amount of One Hundred Thousand dollars (\$100,000) in the form of a standby, irrevocable letter of credit substantially similar to that provided in Appendix B. The deposit shall secure Offerors’ bids in accordance with this RFP and will be held by the District until selection of a successful proposal is determined. If an Offeror’s proposal is not selected, then the letter of credit shall be returned to the Offeror. If an Offeror’s proposal is selected, then the letter of credit will be considered a non-refundable deposit until the Ground Lease and Disposition Agreement (“GLDA”), or other such transaction agreement (each a “Disposition Agreement”) is executed. Upon selection and/or execution of a term sheet, Offerors will be required to submit an additional deposit. All deposit requirements are listed in Section 3.10.
- 3.1.6. Proposals must include signed

3.2. Executive Summary

Offerors shall include a brief executive summary that highlights the Offeror's proposal for the Development Site. While the executive summary will not be a formal evaluation factor, DMPED will use it as part of an integrated assessment of the Offeror's qualifications. In the executive summary, Offerors should:

- 3.2.1. Articulate their vision for redevelopment of the Development Site;
- 3.2.2. Discuss how the proposed Project will benefit the surrounding neighborhood and the District (e.g., by highlighting the ways in which the Project will create economic and other synergies); and
- 3.2.3. Describe how the proposed Project fits within the existing neighborhood fabric.

3.3. Offeror Team

3.3.1. Offerors shall identify the following key development team members:

- i. Development firm or joint venture partners, including the identification of the decision making partner for the Offeror and, if different, the day-to-day lead individual;
- ii. Name, address, telephone number, e-mail address, and fax number of the representative authorized to act on behalf of Offerors, who will be available to respond to questions or requests for additional information;
- iii. Capital sources (proposed construction and permanent lenders, major investors, and other key consultants, if any, related to the financing plan);
- iv. Design team; and
- v. Other relevant team members may be identified.

3.3.2. Offerors shall provide the status of their organization (whether a corporation, a non-profit or charitable institution, a partnership, a limited liability corporation, a business association, joint venture, or other) indicating under which laws it is organized and operating, including a brief history of the organization and its principals. For any entity required to file reports in the jurisdiction of its formation, include a certificate of good standing for such jurisdiction and a certificate of good standing showing that it is registered in the District;

3.3.3. Offerors shall provide a copy of any written agreements or documents evidencing the creation of an Offeror; however, it is not necessary to have a project-specific entity formed in advance of submitting a proposal. The principals, partners, or joint-venture partners who are part of Offerors' teams must be eligible to transact business with the District and in the District;

3.3.4. Offerors shall provide a statement regarding any debarments, suspensions, bankruptcy, or loan defaults on real estate development projects and/or government contracts of Offeror;

3.3.5. Offerors shall provide satisfactory evidence, as determined in the District's sole discretion, with respect to Offerors and their team members, that all tax liabilities and other government impositions are current; and

3.3.6. Offerors shall provide satisfactory evidence, as determined in the District's sole discretion, that there is no ongoing litigation in which the District is a party that relates to any team member or to any other entity or individual having a controlling interest in the entity (or entities) that comprise Offerors (or, if such litigation exists, the name and civil action number of such litigation and a description of the subject matter of such litigation).

3.4. Team Members

For each team member, Offerors shall identify:

3.4.1. Name, address, telephone number, e-mail address, and fax number of each team member, including the identity of each principal, partner, or entity that composes such team member, and such team member's roles or titles within the entity comprising Offerors;

3.4.2. Any affiliation or other relationship between any of the team members and any development company, parent company, or subsidiary;

3.4.3. Any personal or professional relationship among or between any team members and any person working for, appointed to a position in, or elected to an office of the District or any entity for which there may be a conflict of interest or the appearance of a conflict. The District, in its sole discretion, reserves the right to determine a conflict of interest or the appearance thereof;

3.4.4. Any debarments, suspensions, bankruptcy, or loan defaults on real estate development projects and/or government contracts of any team member;

3.4.5. Satisfactory evidence, as determined in the District's sole discretion, with respect to team members, that all tax liabilities and other government impositions are current;

3.4.6. Satisfactory evidence, as determined in the District's sole discretion, that there is no ongoing litigation in which the District is a party that relates to any team member or to any other entity or individual having a controlling interest in the team member (or, if such litigation exists, the name and civil action number of such litigation and a description of the subject matter of such litigation); and

3.4.7. The names of any member, employee, or agent of the team member who, within three (3) years prior to the publication of this RFP, were District employees, consultants, or contractors to the District.

3.5. Qualifications and Experience

Offerors shall identify:

3.5.1. Three (3) to five (5) relevant urban infill development projects similar in nature and scale to Offerors' proposed Project, and with which Offerors or their key personnel have had primary involvement and successful project completion. Offerors shall include past projects that have a comparable historic preservation component. For each relevant project, Offerors shall identify the following:

- i. Development team name;
- ii. Project name/title;
- iii. Location/address of project;
- iv. Description of project, including use(s), total square footage and number of units (if applicable);
- v. Team members' role/responsibilities for the project and structure of the development team (including joint venture description and/or documents, if applicable);
- vi. Period of performance;
- vii. Estimated total development costs at time of award or project commencement;
- viii. Actual total development costs, including all changes and exercised options;
- ix. Original projected completion date;

- x. Current projected or actual completion date;
- xi. The names and contact information for team members involved in the project along with a description of each party's role in the project;
- xii. Illustrative materials that will help the District evaluate the caliber, innovation and relevant experience of the development team; and
- xiii. References, including names, mailing addresses, e-mail addresses, telephone numbers, and a letter authorizing each reference to respond to inquiries regarding the design, financing, development, disposition, or management of prior projects.

3.5.2. Three (3) to five (5) projects with which Offerors or team members have had primary involvement with local, small and disadvantaged business enterprises ("LSDBEs") or minority joint ventures or partnerships, and/or LSDBE equity participation, including details of the levels of participation and deal structure;

3.5.3. An organizational chart showing key personnel who will be working on the Project, including a description of their roles and relevant experience; and

3.5.4. Such other information Offerors believe will assist the District in evaluating the capabilities of Offerors and any other team members who will be participating in the redevelopment.

3.6. Community Benefits

The District is committed to maximizing community benefits for its residents. In view of this commitment, Offerors must present:

3.6.1. Their overall concept and vision for the Development Site and how the vision will integrate with and enhance the surrounding neighborhood;

3.6.2. An approach that ensures the meaningful involvement in the development process by stakeholders and members of the local community who might be affected by the Offeror's proposed development (the "Project"); and

3.6.3. A commitment and plan for maximizing Certified Business Enterprises ("CBEs") participation in the project. Preference will be given to proposals that EXCEED the District's CBE participation goals.

3.6.4. A detailed description of the post-award approach and strategies to working with the community and with stakeholders to ensure their meaningful involvement in the development process.

3.7. Project Concept

Offerors shall describe, in detail:

3.7.1. Their overall concept and vision for the Development Site, and describe how the vision will integrate with and enhance the surrounding community that borders the site;

3.7.2. Development plans and conceptual design drawings that are sufficient in detail to be easily evaluated by the District;

3.7.3. Evidence of market demand for Offeror's proposed uses;

3.7.4. Offeror's property rights in other parcels, if any, that may be accretive to the Project; and

3.7.5. If applicable, a phasing plan that describes Offerors' strategy and timing for delivering various components of the Project.

3.8. Project Implementation

Offerors shall identify and describe the following:

3.8.1. Offeror's ability to mobilize and commence predevelopment activities immediately upon selection in order to meet the "Schedule of Performance" submitted by the Offeror (see 3.8.2);

3.8.2. Offeror's timetable and milestones through Project completion. Offeror is required to complete and submit with proposal the "Schedule of Performance" attached in Exhibit C, which stipulates completion dates for project milestones. The "Schedule of Performance" should be accompanied by a Microsoft Project-based "Project Schedule" that lists each step in the development process starting from proposal submission to Project completion;

3.8.3. Offeror's ability and plan to guarantee to the District that Offeror's milestones will be met; and

3.8.4. Offeror's approach and strategy for working with the community and stakeholders to ensure their meaningful involvement in the development process.

3.9. Transaction Structures

Through this Solicitation, the District intends to stimulate economic development through a long term ground lease based upon the highest and best use for the parcel.

3.9.1. Offerors must provide the following two Offers:

i. Development of the site with an unsubordinated ground lease with lump sum lease payment at lease signing.

ii. Development of the site with a subordinated ground lease with lump sum lease payment at lease signing.

3.9.2. Offerors must indemnify the District against any and all development related contingencies that may impact the ultimate deal structure or benefits to the District (e.g., assumptions regarding demolition of existing improvements should be incorporated, explicitly detailed, and accounted for separately, as applicable, in Offerors' development proposals; and Offerors are expected to fund total development costs, including all construction and design costs, in connection with the demolition of any existing structures).

3.10. Deposits

3.10.1. *Solicitation Response Deposit:*

The Offeror, with submission of its original proposal, submits a \$100,000 deposit ("Solicitation Response Deposit") in the form of an irrevocable letter of credit. At the time of selection, this deposit is at risk to the Offeror. The District will return deposits to Offerors who are not extended the right to exclusively negotiate with the District. The District will retain the deposit of the Offeror who is selected to exclusively negotiate with the District.

3.10.2. *Exclusive Right to Negotiate Deposit:*

In exchange for the right to exclusively negotiate with the District for one hundred twenty (120) days, the selected Offeror shall, in addition to the previously submitted Solicitation Response Deposit, submit an additional \$100,000 deposit (the "Exclusive Right to Negotiate Deposit") in the form of an irrevocable letter of credit. The Exclusive Right to Negotiate Deposit, along with the Offeror's Solicitation Response Deposit will be held through the Offeror's

successful completion of the project, as determined by the District of Columbia. It is the District's expectation that the Offeror selected to exclusively negotiate with the District will achieve the predevelopment milestones in accordance with its submitted Schedule of Performance (Exhibit C) – including expending necessary resources to meet milestones prior to GLDA execution. If the Offeror fails to meet deadlines for predevelopment milestones within the 120 day negotiation timeframe, the District may draw upon the Solicitation Response Deposit and/or the Exclusive Right to Negotiate Deposit. If the District and the Offeror can not finalize and execute a GLDA to their mutual satisfaction within 120 days, despite their good faith efforts to do so, the District may terminate negotiations.

3.10.3. *Ground Lease/Land Disposition Deposit*

At execution of the GLDA, Offeror shall submit to the District a deposit, in the form of an irrevocable letter of credit in the amount of \$100,000 (“Ground Lease/Land Disposition Deposit”). This deposit shall be in addition to the Exclusive Right to Negotiate Deposit, which shall become part of the Ground Lease/Land Disposition Deposit. The Ground Lease/Land Disposition Deposit will be held by the District through the Offeror's successful completion of the Project, as determined by the District of Columbia.

3.10.4. *Closing Effective Date Deposit:*

Prior to the “Effective Date,” the District and the selected Offeror will negotiate additional deposits (if any) due at settlement to ensure the Offeror's completion of the entire Project; as well as compliance with all executed terms and agreements in the GLDA together with a deposit release schedule. This deposit will be in the form of an irrevocable letter of credit in an amount no less than \$400,000.

3.11. Financial Capacity

The District seeks to evaluate Offerors' ability and willingness to invest sponsor equity and self-fund Project pre-development costs. Therefore, Offerors should include the following items:

3.11.1. A description of the financial capacity of Offerors and team members, in the form of annual reports, balance sheets, profit and loss statements, evidence of lines of credit and uncommitted discretionary sources of equity, and/or any other material financial statements; and

3.11.2. A description of the amount of sponsor equity committed to the acquisition and redevelopment of the Development Site.

3.12. Proposed Financing Strategy

The District seeks to Maximize the proceeds to the District for the site. Therefore, Offerors should identify any potential funding gaps and provide detailed alternative sources of non-District public subsidies that could be used to fill said funding gaps. In determining economic feasibility, Offerors shall take into account all available non-District sources of financing (e.g., tax credits) or other private or federal assistance that may benefit the project. Preference will be given to Offerors' proposals that maximize proceeds to the District. Offerors should provide:

3.12.1. Offerors' proposed investment of equity into the Project and the timing of that equity commitment;

3.12.2. A proposed Project financing strategy, including a listing of all anticipated sources of construction and permanent financing (including interest rates; amortization type and period; ex-ante return on assets and equity, and internal rate of return; covenants; coverage ratios; and all other relevant information); and

3.12.3. Sufficient detail such that the District can determine the feasibility of the proposed financing plan, including

- i. Detailed description of which, if any, federal or local government funding sources the Offeror intends to attract to the project. These include historic preservation and weatherization and energy efficiency grants and tax credits.
- ii. An estimate of proposed pre-development costs and statement of capacity to carry those costs, provisions for capital repayment, and how such costs will be factored into the financing of the project (e.g., accrued returns of or on capital, etc.);
- iii. Satisfactory evidence of Offerors' ability to secure Project debt and equity, including commitment letters from prospective investors; and
- iv. A detailed and fully functional Microsoft Excel-based proforma submitted on a CD and inclusive of the following calculations:
 - a. Return on cost;
 - b. Return on equity (levered and unlevered);
 - c. A detailed waterfall of profits to all capital accounts;
 - d. Internal rates of return; and
 - e. Any other Project-specific return metrics.

3.13. Stakeholder and Community Outreach

The District seeks to incorporate into the plans for the Development Site feedback from the surrounding neighborhood and community

In addition, the District expects Offerors to consider and incorporate stakeholder and community preferences to the extent practical. As such, Offerors should provide their plans for community outreach and the integration of community preferences into their overall development plans.

3.14. Acceptance of Minimum Terms and Conflict of Interest Requirement

Offerors must include with their proposal a signed Offeror Acknowledgment and Agreement to Certain Terms and Requirements, which is provided as an Appendix to this RFP (Appendix A).

4. **TRANSACTION MINIMUM TERMS**

4.1. Parcel Ownership

The Development Site shall be conveyed or leased in "as-is" condition, without warranty by the District as to physical condition of the land or any existing structures.

4.2. Soil or Subsurface Conditions

Notwithstanding prior studies available for Offerors' review, the District makes no representations regarding the character or extent of soil or subsurface conditions or the conditions and existence of utilities that may be encountered during the course of any site work, development, construction or occupancy.

4.3. Pre-development and Development Costs

Offerors should draw independent conclusions concerning conditions that may affect the methods or cost of development. Offerors shall be responsible for all pre-development (including demolition of existing improvements and due diligence studies such as traffic, geotechnical, storm water management and other site preparations) and Project development costs. Offerors shall be solely responsible for all costs related to obtaining necessary permits, approvals, clearances, and licenses at the appropriate time, including, without limitation, zoning approvals and the clearances required under the Historic Landmark and Historic District Protection Act 1978. The District expects Offerors to proceed immediately with pre-development work upon selection, in order to meet the dates in the "Schedule of Performance".

4.4. Environmental Remediation

Offerors will be responsible at their sole cost and liability for any environmental remediation that may be associated with removal or disturbance of existing site improvements or other site preparation.

4.5. Local Small Disadvantaged Business Enterprise Participation and Certified Business Enterprise Utilization

The District is committed to ensuring significant participation and inclusion of CBEs – and, in particular, LSDBEs (LSDBE means a CBE that is an LBE, SBE, or DBE) – in the development, equity investment and contracting opportunities derived from the development or redevelopment of District-owned sites. Prior to the execution of the Ground Lease and Development Agreement or Land Disposition Agreement with the District, selected Offerors will be required to sign a Certified Business Enterprise Utilization and Participation Agreement ("CBE Agreement") with the District Department of Small and Local Business Development ("DSLBD") that outlines the specific equity and development participation and contracting requirements that the selected development team must achieve.

4.6. Equity & Development Participation General Principles

Prior to executing the CBE Agreement, Offerors must demonstrate to the District that they satisfy the following general principles related to equity and development participation:

4.6.1. *Minimum LSDBE Participation Requirements*

LSDBEs shall receive no less than twenty (20) percent in equity participation and no less than twenty (20) percent in development participation in the Project, in accordance with Section 2349a of the Small, Local and Disadvantaged Business Enterprise Development and Assistance Act, D.C. Official Code § 2-218.49a. LSDBE development partners shall have the same opportunity to participate in all development, project management, construction management, or other related fees as the Offerors. LSDBE equity partners shall not be required to contribute more than twenty (20) percent of the sponsor equity contributed to the project. Preference will be given to Offerors that EXCEED this minimum requirement.

4.6.2. *Pari Passu Returns for LSDBE Equity Partner(s)*

LSDBE equity partners shall receive a return on investment in the project that is pari passu with all other sources of sponsor equity.

4.6.3. *Preservation of LSDBE Financial Interest*

LSDBE partner(s)' equity interests shall not be diluted over the course of the project, including for failure to contribute additional capital.

4.6.4. *LSDBE Risk Commensurate with Equity Position*

No LSDBE firm shall be expected to bear financial or execution requirements that are disproportionate with said LSDBE firm's equity position in Offerors' team and/or Project.

4.6.5. *Management Control and Approval Rights*

LSDBE partner(s) should have management control and approval rights in line with their equity position(s), and certain major decisions should require consent of one or more LSDBE partners or require a supermajority vote which must include one or more LSDBE partners.

4.6.6. *Letter of Intent (to be included with Proposal)*

A legally binding Letter of Intent ("LOI") or comparable legally binding agreement between master developer and the LSDBE partners that demonstrates that the LSDBE partners meet or exceed the 20% participation goal established by DSLBD. The LSDBE partners must be certified by the DSLBD and documentation showing certification must be included in the offer. In addition, Offerors shall:

Identify the LSDBE partners;

State the percentage of equity and development participation of each LSDBE partner;

Describe the role and responsibilities for each LSDBE partner; and

Include anti-dilution provisions for the benefit of the LSDBE partners that will be applied at all stages of the project.

Offers that fail to contain a LOI or comparable legally binding agreement with LSDBE partners will be deemed "Non-Responsive" and will be withdrawn from the selection process.

4.6.7. *Inclusion and Recognition*

LSDBE partners should be involved and represented to third parties as active team members, including through joint naming, advertising, branding, negotiation of debt and institutional equity financing, selection of master planners and other critical vendors, etc.

4.7. CBE Contracting Utilization

4.7.1. Prior to executing the CBE Agreement, Offerors must commit to meet or exceed the requirement that thirty-five (35) percent of the Project's contracting and procurement activity be with CBEs as stipulated in D.C. Act 18-0179.

4.7.2. Prior to and as a condition of execution of a Disposition Agreement, the Offeror will be required to sign a CBE Utilization and Participation Agreement with DSLBD that outlines the specific contracting requirements. Additional information may be found at <http://dslbd.dc.gov>.

4.8. First Source Hiring Agreement

If selected, the Offeror must enter into a First Source Hiring Agreement with the District's Department of Employment Services prior to execution of a Disposition Agreement, which requires that at least fifty-one (51) percent of new jobs created by the Project be filled by District residents.

4.9. Green Buildings

Offerors must adhere to the District of Columbia's Green Building Act of 2006, D.C. Official Code § 6-1451.01 *et seq.* (2007), as well as any LEED certification requirements for the construction, rehabilitation, or renovation of District public assets, as applicable.

4.10. Conflicts of Interest

In response to the RFP, Offerors must represent and warrant the following to the District:

4.10.1. The compensation to be requested, offered, paid or received in connection with this RFP has been developed and provided independently and without consultation, communication, or other interaction with any other competitor for the purpose of restricting competition related to this RFP or otherwise;

4.10.2. No person or entity employed by the District or otherwise involved in preparing this RFP on behalf of the District: (i) has provided any information to Offerors that was not also available to all entities responding to the RFP; (ii) is affiliated with or employed by Offerors or has any financial interest in Offerors; (iii) has provided any assistance to Offerors in responding to the RFP; or (iv) will benefit financially if Offerors are selected in response to the RFP; and

4.10.3. Offerors have not offered or given to any District officer or employee any gratuity or anything of value intended to obtain favorable treatment under the RFP or any other RFP, solicitation or other contract, and Offerors have not taken any action to induce any District officer or employee to violate the rules of ethics governing the District and its employees. Offerors have not and shall not offer, give, or agree to give anything of value either to the District or any of its employees, agents, job shoppers, consultants, managers, or other person or firm representing the District, or to a member of the immediate family (i.e., a spouse, child, parent, brother, or sister) of any of the foregoing. Any such conduct shall be deemed a violation of this RFP. As used herein, "anything of value" shall include but not be limited to any (a) favors, such as meals, entertainment, and transportation (other than that contemplated by this RFP, if any, or any other contract with the District) which might tend to obligate a District employee to Offeror, and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment, or business opportunity. Such term shall not include work or services rendered pursuant to any other valid District contract.

4.11. On-going Reporting to District

Offerors shall report to the District directly and without undue delay any information concerning conduct which may involve: (a) corruption, criminal activity, conflict of

interest, gross mismanagement or abuse of authority; or (b) any solicitation of money, goods, requests for future employment or benefit of thing of value, by or on behalf of any government employee, officer or public official, any Offeror's employee, officer, agent, subcontractor, labor official, or other person for any purpose which may be related to the procurement of the RFP by Offerors, or which may affect performance in response to the RFP in any way.

5. Preferences

5.1. Preference will be given to Offerors with development plans that:

- a. Design development programs which stimulate pedestrian activity and which include vibrant streetscapes and neighborhood-serving retail;
- b. Provide opportunities for LSDBE partners and utilize CBEs that exceed the District requirements.
- c. Maximize the overall economic benefit to the District, including; 1) maximizing value to the District through land value proceeds (paid by Offeror to the District) and incremental property and sales taxes; and 2) maximizing community benefits and job creation and/or apprenticeship programs for District residents.

5.2. Preference will be given to Offerors that include in their proposals employment and business opportunities for local residents and business. Offerors are encouraged to:

5.2.1. Submit detailed apprenticeship programs that facilitate placing existing District residents into employment opportunities within the Project. The commitment and strategy to develop and implement a local apprenticeship program shall be in accordance with D.C. Official Code §§ 32-1401 et seq. For more information on the District's Department of Employment Services (DOES) apprenticeship program, please visit the website below or contact DOES Office of Apprenticeship Information and Training.

<http://www.does.dc.gov/does/cwp/view,a,1232,q,618747.asp>

5.2.2. Include District neighborhood-based business opportunities. Evidence of the inclusion of such businesses shall be in the form of written confirmation from such neighborhood-based businesses which shall include the scope and details of the said businesses' involvement in the Project.

5.2.3. Preference will be given to Offerors that include lead LSDBE consultants and/or third party contractors on the development teams and include copies of binding agreements between the developer and the LSDBE companies. ADD LONG TERM CBE PARTICIPATION INCENTIVE

6. SELECTION PROCESS AND EVALUATION TEAM

6.1. Selection Process

6.1.1. The District will determine, in its sole discretion, whether each proposal received in response to the RFP is responsive and acceptable. The decision of the District in this regard is final and will be explained to Offerors upon request.

6.1.2. A Selection Panel may be established to review and evaluate and select one of the proposals. If established, the composition of the Selection Panel will be determined by the District, in its sole discretion. DMPED and/or the Selection Panel may consult

with professional consultants, advisors, and other stakeholders for technical assistance. DMPED or the Selection Panel will evaluate each proposal, taking into account the information requested in the RFP and the best interests of the District.

6.1.3. DMPED and/or the Selection Panel may request additional information from Offerors (or a short list of Offerors), including a request for best and final offers (BAFO), to clarify Offerors' Offers or to aid DMPED and/or the Selection Panel in the review of the Offers. DMPED and/or the Selection Panel will include within the BAFO request a minimum term sheet, which Offerors are required to sign upon submission of BAFO.

6.1.4. Following receipt of additional information, if requested, DMPED or the Selection Panel will select, in its sole and absolute discretion, one proposal, as modified or otherwise, to recommend to the Mayor, who, in his absolute discretion, may accept the Selection Panel's recommendation.

6.1.5. Upon recommendation by the Selection Panel, and if approved by the Mayor, the DMPED shall notify the selected Offeror, if any.

6.1.6. If one Offeror is thereby chosen for commencement of negotiations, the selected Offeror may be requested by the District to proceed to negotiate a GLDA. If the District and selected Offeror are unable to execute a GLDA within one hundred and twenty (120) days, the District, in its absolute and sole discretion, may terminate negotiations and select a different Offeror who responded to the RFP; re-issue the RFP; or take such other measures as it deems reasonable, appropriate, or necessary.

6.2. Evaluation Criteria

The Selection Panel will evaluate responses to the RFP for completeness, market feasibility, innovative ideas, strength of community benefits, and the strength of the financial proposal. The basis upon which Offerors will be measured includes, but is not limited to, the following:

6.2.1. Development Vision

Offerors should propose innovative, market-viable ideas for redevelopment of the Development Site. As such, Offerors are invited to propose development programs that include – as appropriate in terms of market viability and neighborhood context – hotel, commercial, residential, retail, cultural/arts, and/or recreational uses. DMPED encourages Offerors to consider, in their vision, the District's goals with respect to promoting vibrant, walkable, mixed-use neighborhoods and commercial corridors.

6.2.2. Qualifications and Experience of Offerors

The District will more highly rate Offerors who:

- i. Demonstrate, through entity experience and expertise of proposed key personnel, that they are qualified to execute the proposed development plan;
- ii. Have successfully served in master developer roles for completed projects of a similar scale and scope to that Project proposed by Offerors; and
- iii. Provide evidence of sufficient organizational and financial capability to ensure successful and timely delivery of the Project.

6.2.3. Project Financial Feasibility and Development Team Financial Capacity

The District will more highly rate Offerors who:

- i. Demonstrate that they possess the financial resources to execute the Project requirements with minimum District-based subsidy;
- ii. Display a willingness to provide the District with fair consideration for its real property assets; and

- iii. Exhibit a willingness to provide the District with a meaningful guarantee regarding payment and performance through final Project completion.

6.2.4. Attainment of District Policy Goals

The District will more highly rate Offerors who maximize achievement of the following District policy goals:

- i. LSDBE and CBE participation;
- ii. Promote vibrancy of neighborhood /commercial corridors;
- iii. Improve quality of life for the surrounding community;
- iv. Incorporate environmental sustainability best practices; and
- v. Maximize economic value to the District.

6.3. Timeline

The District will endeavor to follow the timetable set forth below (all days are calendar days unless otherwise noted); however, the activities and timetable represented below are a guideline only and are subject to change in the District's sole discretion and without prior notice:

SELECTION PROCESS TIMETABLE (SUBJECT TO CHANGE)	
Issuance of RFP	September 16 2009
Pre-Offer Conference and Site Tour	First Week of November
Proposal Due Date (by 5:00 PM EST)	January 19, 2010
Offeror Interviews	TBD
Select Offerors for Short-List (if necessary)	TBD
Request for Best and Final Offers (if necessary)	TBD
Offeror Presentations to Community	TBD
Selection of Offerors	Spring 2010

Each Offeror is required to deliver ten (10) printed copies and a CD containing the offer and supplemental materials to the DMPED authorized representative identified below:

David Roberts
Office of the Deputy Mayor for
Planning and Economic Development
The John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 317
Washington, D.C. 20004
david.roberts@dc.gov

6.4. Pre-Offer Conference and Site Tour Schedule

6.4.1. A Pre-Offer Conference and Site Tour will be held the first week of November. Details regarding location and timing will be posted on the DMPED website (<http://dcbiz.dc.gov>). The District expects to post these details by October 15.

6.5. Questions

Any questions regarding this RFP should be submitted via e-mail only to David.Roberts@dc.gov and Natalie.Martirosian@dc.gov. Offerors shall not direct questions to any other person within the District except as allowed elsewhere in this RFP. Responses to Offeror questions will be aggregated and posted on the DMPED website,

(<http://dcbiz.dc.gov>). The District expects to post questions and responses by November 1.

6.6. Post-Selection

6.6.1. Following receipt of notification from the District of the selection (“Selection Notification”), the selected Offeror shall execute a right of entry agreement with the District to allow the selected Offeror to begin due diligence and site studies.

6.6.2. The District, through DMPED, and the selected Offeror shall negotiate a disposition agreement which shall incorporate the requirements contained in this RFP, the minimum term sheet, and such other terms as may be required by DMPED or may be agreed to by the DMPED and the selected Offeror. Upon completion of the parties’ negotiation, DMPED will recommend such Offeror and proposed business terms to the Mayor. If the Mayor agrees with DMPED’s recommendation, then the Mayor will submit the proposed transaction to the Council of the District of Columbia (“Council”) for its approval of (i) the disposition in accordance with D.C. Official Code § 10-801 (2006 Supp.) or (ii) waivers from the Council in accordance with applicable District law.

In accordance with D.C. Official Code § 10-801, the District is not authorized to convey or lease a Development Site unless and until authorized by the Council and all other applicable federal and District laws.

6.6.3. If the District and the selected Offeror are unable to execute a GLDA within one hundred and twenty (120) days after the date of the Selection Notification, DMPED, in its sole and absolute discretion, may terminate negotiations and select a different Offeror from among the Offerors who submitted offers to the RFP, or re-issue this RFP or take such other measures as it deems reasonable or appropriate.

6.6.4. Pursuant to the District Land Disposition Amendment Act of 2009, enacted August 3, 2009 (D.C. Act 18-179), prior to the District’s conveyance of the subject property, the selected Offeror will be required to provide, among other things, an estimate of tax revenues that the proposed project will produce; an estimate of permitting fees the selected Offeror anticipates it will incur, an estimate of office, retail, and short-term construction employment opportunities the proposed project will produce; an executed minimum term sheet or memorandum of understanding between the selected Offeror and the District that will include the major business terms of the transaction, a description of the method of disposition, a description of the Certified Business Enterprise requirements, a description of the green building requirements, and a description of the schedule of performance; a draft land disposition agreement between the selected Offeror and the District; and a draft certified business enterprise agreement.

7. **RESERVATION OF RIGHTS AND MISCELLANEOUS PROVISIONS**

7.1. The District reserves the right, in its sole discretion and as it may deem necessary, appropriate, or beneficial to the District with respect to the RFP, to:

7.1.1. Cancel, withdraw or modify the RFP prior to or after the Offer deadline;

7.1.2. Modify or issue clarifications to the RFP prior to the Offer deadline;

7.1.3. After review of one or more offers, the District may request submission of additional information from some or all Offerors;

7.1.4. The District may request one or more Offerors to modify its Offer(s), provide additional information, or provide a “Best and Final Offer” for the District’s review;

- 7.1.5. Enter into negotiations with one or more Offerors based on Offers submitted in response to the RFP;
- 7.1.6. Reject any proposals it deems incomplete or unresponsive to the RFP requirements;
- 7.1.7. Consider one or more Offers that are noncompliant with the RFP requirements;
- 7.1.8. Reject all Offers that are submitted under the RFP;
- 7.1.9. Modify the deadline for Offers or other actions; and
- 7.1.10. Reissue (i) the original RFP, (ii) a modified RFP, or (iii) a new RFP, whether or not any Offers have been received in response to the initial RFP issuance.

7.2. Notice of Modifications

The District will post on its website (<http://dcbiz.dc.gov>) any notices or information regarding cancellations, withdrawals, modifications to deadlines, and other modifications to this RFP. Offerors shall have an obligation to check the website for any such notices and information, and the District shall have no duty to provide direct notice to Offerors.

7.3. Change in Offerors' Information

If after Offerors have provided Offers to the District, information provided in a proposal changes (e.g., deletion or modification to any of Offerors' team members or new financial information), Offerors must notify the District in writing and provide updated information in the same format for the appropriate section of the RFP. The District reserves the right to evaluate the modified proposal, eliminate Offerors from further consideration, or take other action as the District may deem appropriate. The District will require similar notification and approval rights of any change to Offerors' proposal or development team following award, if any.

7.4. Ownership and Use of Proposals

All Offers shall be the property of the District. The District may use any and all ideas in any Offer, whether the Offer is selected or rejected.

7.5. Restricted Communications

Upon release of this RFP and until final selection, Offerors shall not communicate with DMPED or District staff about the RFP or issues related to the RFP except as authorized in this RFP.

7.6. Selection Non-Binding

The selection by the District of an Offeror indicates only the District's intent to negotiate with the Offeror, and the selection does not constitute a commitment by the District to execute a final agreement or contract with the Offeror.

7.7. Confidentiality

Offers and all other information submitted in response to this RFP are subject to the District's Freedom of Information Act (D.C. Official Code § 2-531 et seq.) ("FOIA"), which generally mandates the disclosure of documents in the possession of the District upon the request of any person, unless the content of the document falls within a specific exemption category (e.g., trade secrets and commercial or financial information obtained from outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained).

If Offerors provide information that they believe is exempt from mandatory disclosure under FOIA (“exempt information”), Offerors shall include the following legend on the title page of the proposal:

THIS PROPOSAL CONTAINS INFORMATION THAT IS EXEMPT FROM MANDATORY DISCLOSURE UNDER THE DISTRICT’S FREEDOM OF INFORMATION ACT

In addition, on each page that contains information that Offerors believe is exempt from mandatory disclosure under FOIA, Offerors shall include the following separate legend:

THIS PAGE CONTAINS INFORMATION THAT IS EXEMPT FROM MANDATORY DISCLOSURE UNDER THE DISTRICT’S FREEDOM OF INFORMATION ACT

On each such page, Offerors shall also specify the exempt information and shall state the exemption category within which it is believed the information falls.

Although DMPED will generally endeavor not to disclose information designated by Offerors as exempt information, DMPED will independently determine whether the information designated by Offerors is exempt from mandatory disclosure. Moreover, exempt information may be disclosed by DMPED, at its discretion, unless otherwise prohibited by law, and the District shall have no liability related to such disclosure.

7.8. Non-Liability

By participating in the RFP process, Offerors agrees to hold the District, its officers, employees, agents, representatives, and consultants harmless from all claims, liabilities, and costs related to all aspects of this RFP.

7.9. District Reserved Rights

The District reserves the following rights, with respect to negotiations:

The District has the right to begin negotiations with the next preferred Offeror in the event that a development agreement cannot be executed within the allotted period of negotiations with a prior selected Offeror. The District may terminate, in its sole and absolute discretion, negotiations with any Offerors if such Offerors introduce comments or changes to a development agreement that are inconsistent with its previously submitted offer materials.

In the event of best and final negotiations between the Offerors, the District reserves the right, in its sole discretion, to make and memorialize modifications to any Offer in the form of a Memorandum of Understanding between the District and Offerors.

7.10. Other Limiting Conditions

7.10.1. If at any time after the District selects a specific Offeror and executes a Disposition Agreement with the Offeror, and the Offeror does not proceed with the Project, then the Offeror must notify the District in writing and provide reasons for its decision. The Selected Offeror wishing to withdraw may be subject to the loss of part or all of the performance deposit and may be responsible for certain costs previously waived by the District, in addition to any other remedies available to the District under the disposition agreement, or by law. If the District is unable to deliver the Development

Site, all deposits and any interest earned will be returned to the Offeror and the District shall be released from any and all further liability.

7.10.2. Projects are expected to “stand alone”, in that Offerors are prohibited from cross collateralizing and cross defaulting a Project with any other assets. Moreover, Offerors are prohibited from assigning, pledging, hypothecating, or otherwise transferring its interest in the net cash flows or ownership of the Project in part, or in whole, without prior District approval. Any additional debt shall require prior written District approval. This limitation shall apply until final completion of the Project.

7.10.3. Offerors shall disclose all development management fees, general contracting fees, construction management fees, property management fees, and other fees that are paid to Offerors or affiliated parties during the life of the Project. Failure to do so may result in the District terminating, in its sole and absolute discretion, negotiations with an Offeror.

7.10.4. The District is subject to various laws, rules, policies and agreements that impose legal and ethical constraints upon current and former District employees and consultants with regard to post-employment restrictions vis-a-vis such employee’s or consultant’s involvement in District-led projects. In particular, restrictions include but are not limited to the following guidelines:

- i. All Offerors, its members, agents, or employees, are prohibited from: (i) making offers of employment, (ii) conducting any negotiations for employment, (iii) employing or, (iv) entering into contracts of any sort, with current employees, consultants, or contractors to the District who are personally and substantially involved in any aspect of this RFP;
- ii. Offerors must disclose in their initial proposals the names of any member, employee, or agent who within three (3) years prior to the publication of this RFP were District employees, consultants, or contractors to the District. On a continuing basis, Offerors will be required to provide the District with regular and periodic notices of any and all new hires of employees, contracted agents, or consultants within five (5) days of any such hire;
- iii. This Section 6.10 shall apply to all Offerors during the conduct of this competition, and will subsequently apply to the selected Offeror until such time as final completion of development of the Project;
- iv. Required disclosures and notices notwithstanding, failure to comply with any obligation described in this Section 6.10 may result, in the District’s sole and absolute discretion, in Offerors’ disqualification from consideration under this RFP, the rescission of an Offeror’s award, and/or termination of any agreement between an Offeror and the District.

APPENDICES

- A. OFFERORS' ACKNOWLEDGEMENT
- B. FORM FOR IRREVOCABLE LETTER OF CREDIT
- C. SCHEDULE OF PERFORMANCE