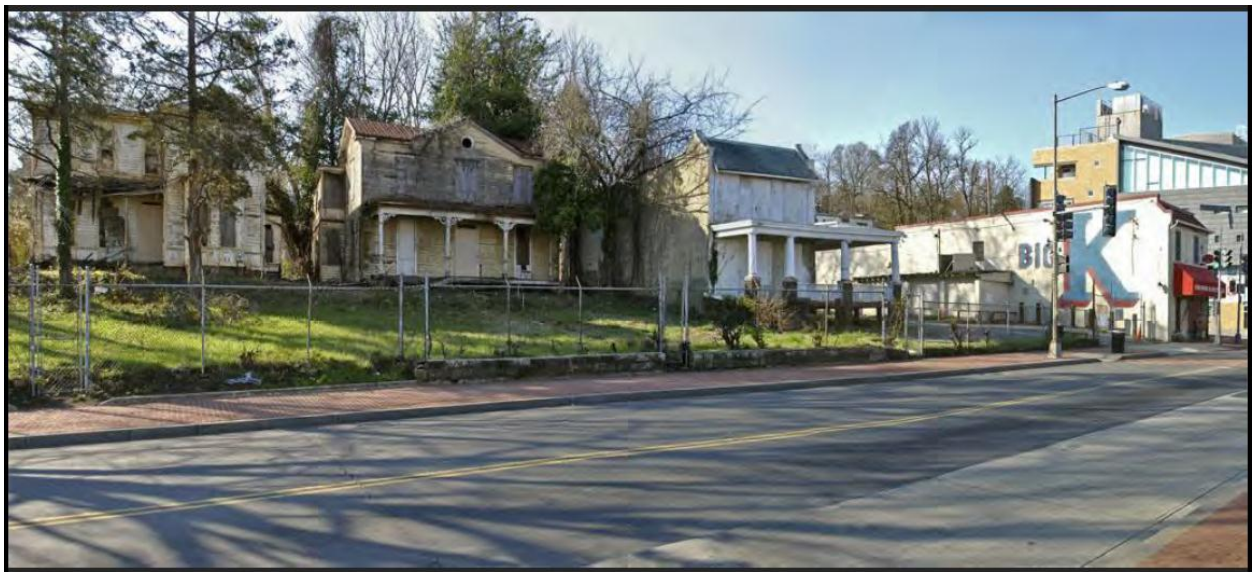
**District of Columbia**
**Department of Housing and Community Development**

# Property Acquisition and Disposition Division




# Disposition - Big K Site
## (2228, 2234, 2238, & 2252 Martin Luther King Jr. Avenue, S.E.)

# Issuance of Solicitation for Offers

To Be Released: June 4, 2012
Orientation Meeting: June 27, 2012, 11:00am
Responses Due: August 3, 2012, 3:00pm

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# 1. Introduction

## 1.1. Purpose of Solicitation for Offers

The Property Acquisition and Disposition Division ("**PADD**") of the Department of Housing and Community Development ("**DHCD**") was established at the beginning of fiscal year 2008 and consolidates the Homestead Housing Preservation Program, the Home Again Program, the Land and Housing Development Opportunities Program and other property acquisition and disposition functions into one division. The goal of PADD is to stabilize neighborhoods by (1) decreasing the number of vacant and abandoned properties in the District, and (2) transforming vacant and/or deteriorated properties into homeownership and economic development opportunities for District of Columbia residents.

Pursuant to Mayor's Order 2007-209, dated September 27, 2007, the Mayor of the District of Columbia delegated his authority under the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, as amended, the Vacant and Abandoned Properties Community Development and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Act of 2002, as amended, the Homestead Preservation Act of 1986 and certain portions of the Tax Clarity Act of 2000, as amended to DHCD for the purpose of addressing blight, crime and neighborhood instability caused by vacant, abandoned and deteriorated properties in the District by allowing DHCD to acquire and dispose of such properties for redevelopment.

For this Solicitation for Offers, PADD is offering to sell four (4) adjacent properties referred to collectively as the Big K Site. DHCD anticipates that the redevelopment of these properties will have a positive impact and continue the revitalization efforts that have begun in the Historic Anacostia neighborhood.

## 1.2. Development Opportunity

In this Solicitation for Offers (the "**Solicitation**"), PADD, under the authority of D.C. Official Code § 42-3171.03 (2009) (the "**Code**"), intends to dispose of certain properties currently in its inventory. The properties have been arranged in a grouping based on geographic proximity (the "**Development Site**"). The Development Site shall consist of four properties (each a "**Property**" and collectively, the "**Properties**") that are adjacent to each other, to allow for continuity in development and design. PADD shall award the Development Site to a developer ("Developer") for the purpose of planning, financing, building and operating a project at the Big K site (the "**Project**"). The mix of uses may include commercial office and retail uses, and neighborhood amenities. Developers are

not limited by the uses described therein; however, Developers are encouraged to design creative development programs that address the stated preferences of the District and the community stakeholders, described in Sections 1.3 and 1.4. PADD is pleased to issue this Solicitation and invites Developers to respond to this Solicitation with project proposals (an "**Offer**").

As identified and described in Section 3, PADD will evaluate all Offers according to the following selection criteria:

- Development Plan
- Affordability Plan (if applicable)
- Historic Preservation Plan
- Pricing Proposal and Financing Plan
- Community Benefits
- Executive Summary

Developers will be expected to participate in a transparent and collaborative process involving the District, PADD, and community stakeholders. Offers submitted in response to this Solicitation shall comply with the requirements set forth in Sections 3 and 4.

**1.3.** Agency Goals

Based on prior experience, PADD has identified the following development standards and goals that contribute to successful projects. This list is not intended to be a substitute for the selection criteria listed in Section 1.2, but merely a guide for developers as they prepare their Offers. Successful proposals will incorporate the following:

- Consistency with the recommendations of the Big K Community Advisory Group;
- Historic Preservation;
- Mixed-use developments;
- Vocational training and/or local neighborhood job creation;
- Good workmanlike construction, quality design and architecture that is compatible with the existing architecture of the neighborhood;
- Adequate financing from pre-development through final completion;
- Community outreach and development coordination; and
- Use of green materials, techniques and systems that meet the requirements of the Green Building Act of 2006.

**1.4.** Development Vision

In accordance with Policy FSS-2.1.1 of the District's Comprehensive Plan, DHCD seeks to encourage the continued revitalization of Historic Anacostia as a safe, walkable, and attractive neighborhood, with restored historic buildings and compatible, well-designed mixed-use projects. New development should serve a variety of income groups and household types and should restore needed retail services to the community.

DHCD has conducted commercial and housing market studies for the area surrounding the Site, and over the past year has been working with the community to develop a feasible land use program for the Site that will catalyze neighborhood revitalization. DHCD and the Big K Community Advisory Group envision a Site marked by restored historic structures, containing commercial uses that meet the neighborhood's retail needs, provide office space for small businesses, and create jobs for Ward 8 residents.

Developers are invited to propose innovative, economically viable ideas for the redevelopment of the Site. While the community has described its preferences for potential uses on the site, DHCD will require the project to demonstrate both market and financial feasibility. Developers are encouraged to consider a variety of potential development programs that reflect the highest and best use of the site. Preference will be given for projects that support the District's goals for promoting vibrant, walkable, mixed-use neighborhoods and commercial corridors.

Useful information regarding the community's and the District's priorities for this site, as well as the residential and commercial markets of the area, can be found in the plans and presentations listed below:

1.4.1. *Big K Community Advisory Group Recommendations* (2011)
http://dhcd.dc.gov/dhcd/frames.asp?doc=/dhcd/lib/dhcd/pdf/padd_bigk_sept_22_advisoryupdate_stabilization.pdf
This document details the recommendations of the Big K Community Advisory Group, comprised of residents and stakeholders from the surrounding neighborhoods. The recommendations are a result of two market studies, a Community Use Survey, and multiple public meetings, and include the following community preferences for potential uses on the site:

- Cultural uses, culinary school, food market, restaurant, and small business retail niche.
- Throughout the site, develop spaces that would attract small business offices.

- Incorporate ground floor retail on the corner site at 2252 MLK.
- If feasible, incorporate a small business incubator somewhere on the site.
- Overall, the project should create jobs and commercial retail to serve resident needs.

A competitive Offer will consider these recommendations.

1.4.2. *People Plan DC* (2011)
http://www.peopleplandc.org/anacostia
The People Plan DC website compiles several reports, analyses, and maps related to the Anacostia commercial and housing markets, as well as information about retail franchise opportunities.

1.4.3. *Anacostia Commercial Market Analysis* (2011)
http://dhcd.dc.gov/dhcd/frames.asp?doc=/dhcd/lib/dhcd/pdf/Final_Anacostia_Commercial_Market_Analysis.pdf
This retail and commercial office market analysis identifies existing market trends, quantifies the demand for additional retail and office development, identifies catalytic redevelopment sites, and provides strategic parcel-level recommendations for implementation. The Big K Site is identified as a high priority redevelopment site.

1.4.4. *DC Retail Action Strategy: Anacostia – Poplar Point*(2009)
http://planning.dc.gov/DC/Planning/In+Your+Neighborhood/Wards/Ward+8/Retail+Action+Strategy/Anacostia+Polar+Point
The Retail Action Strategy is the first ever citywide assessment of the District's retail potential. It examines ways to strengthen the city's retail base at both the citywide and local scale, to promote vibrant commercial districts with a broad range of retail businesses in all neighborhoods, and to create expanded opportunities for small and local retailers.

1.4.5. *Anacostia Neighborhood Investment Fund Plan* (2008)
http://planning.dc.gov/DC/Planning/In+Your+Neighborhood/Wards/Ward+8/Anacostia,+Neighborhood+Investment+Fund,+Plan,+Planning,+8,+Final+Plan
The Anacostia Target Area Investment Plan presents an overview of the NIF program, a background of the target area, description of the planning process, and the resulting investment goals and strategies.

1.4.6. *DC Comprehensive Plan* (2006)

http://planning.dc.gov/DC/Planning/Across+the+City/Comprehensive+Plan/2006+Comprehensive+Plan
The Comprehensive Plan is the one plan that guides the District's development, both broadly and in detail. As the guide for all District planning, the Comprehensive Plan establishes the priorities and key actions that other plans address in greater detail.

DHCD will look favorably upon Developers that demonstrate an understanding of these plans and adhere to the recommendations they contain.

## 2. Property and Land Use Overview

### 2.1. Property Characteristics

| | |
|---|---|
| **Neighborhood** | **Anacostia** |
| **Ward** | **8** |
| **Zoning** | **C-3-A** |

| **SSL** | **Property Address** | **Property Type** | **Historic District** | **Assessed Value** | **S.F.** |
|---|---|---|---|---|---|
| 5802,0810 | 2228 Martin Luther King, Jr. Ave., S.E.* | Residential-Detached-Single-Family | Yes | $161,450 | 8,233 |
| 5802,0811 | 2234 Martin Luther King, Jr. Ave., S.E. | Residential-Detached-Single-Family | Yes | $164,840 | 8,157 |
| 5802,0978 | 2238 Martin Luther King, Jr. Ave., S.E. | Residential-Detached-Single-Family | Yes | $150,310 | 5,747 |
| 5802,0977 | 2252 Martin Luther King, Jr. Ave., S.E. | Store-Miscellaneous | No | $463,390 | 10,910 |
| **Total** | | | | **$939,990** | **33,047** |

*DHCD has an approved raze permit for this building.

2228
2234
2238
2252

2228 Martin Luther King Jr. Ave SE

2234 Martin Luther King Jr. Ave SE

2238 Martin Luther King Jr. Ave SE

2252 Martin Luther King Jr. Ave SE

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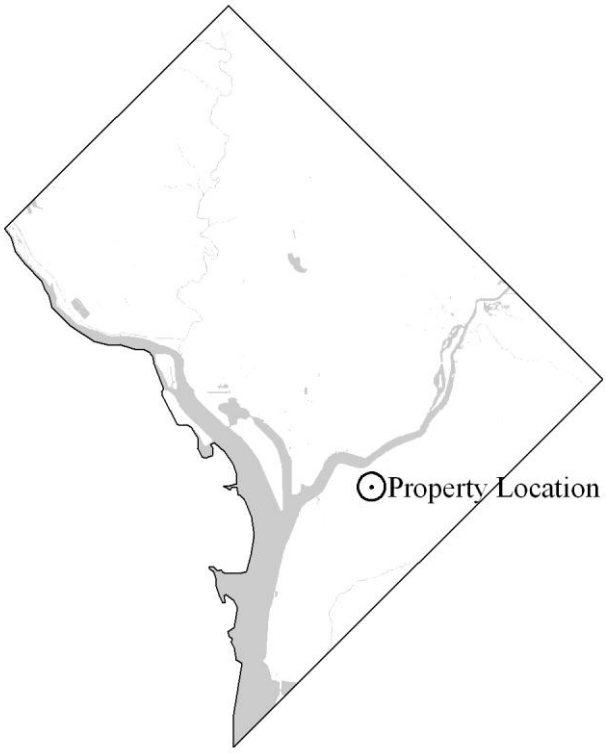
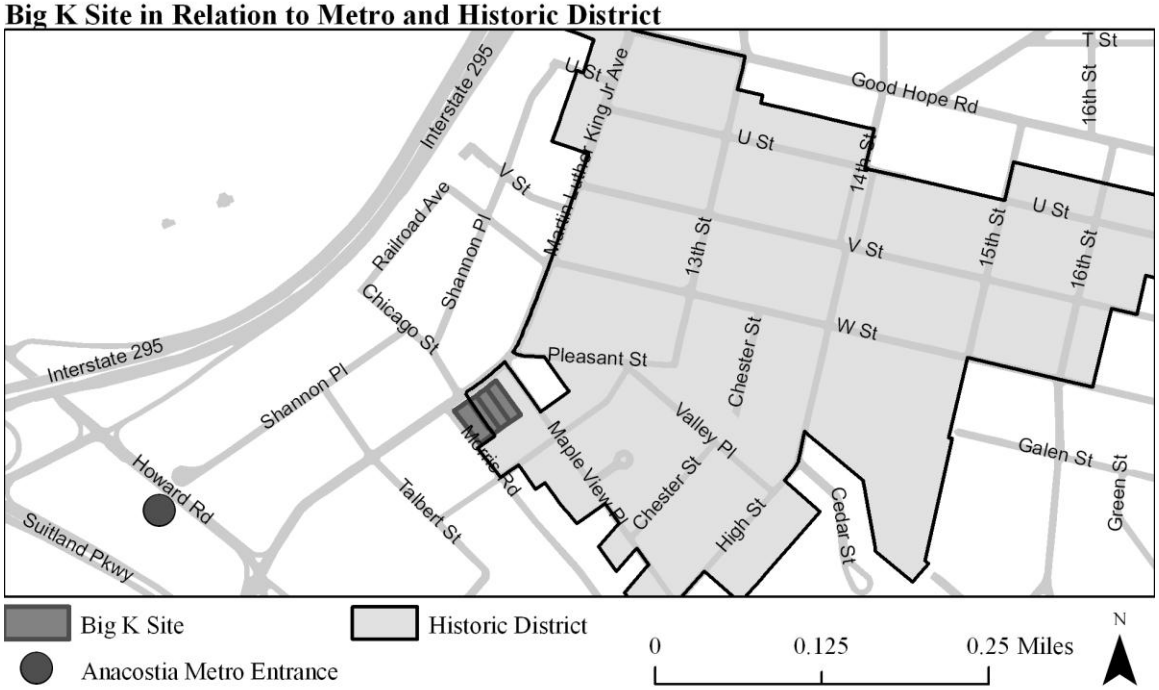



**Big K Site in Relation to Metro and Historic District**



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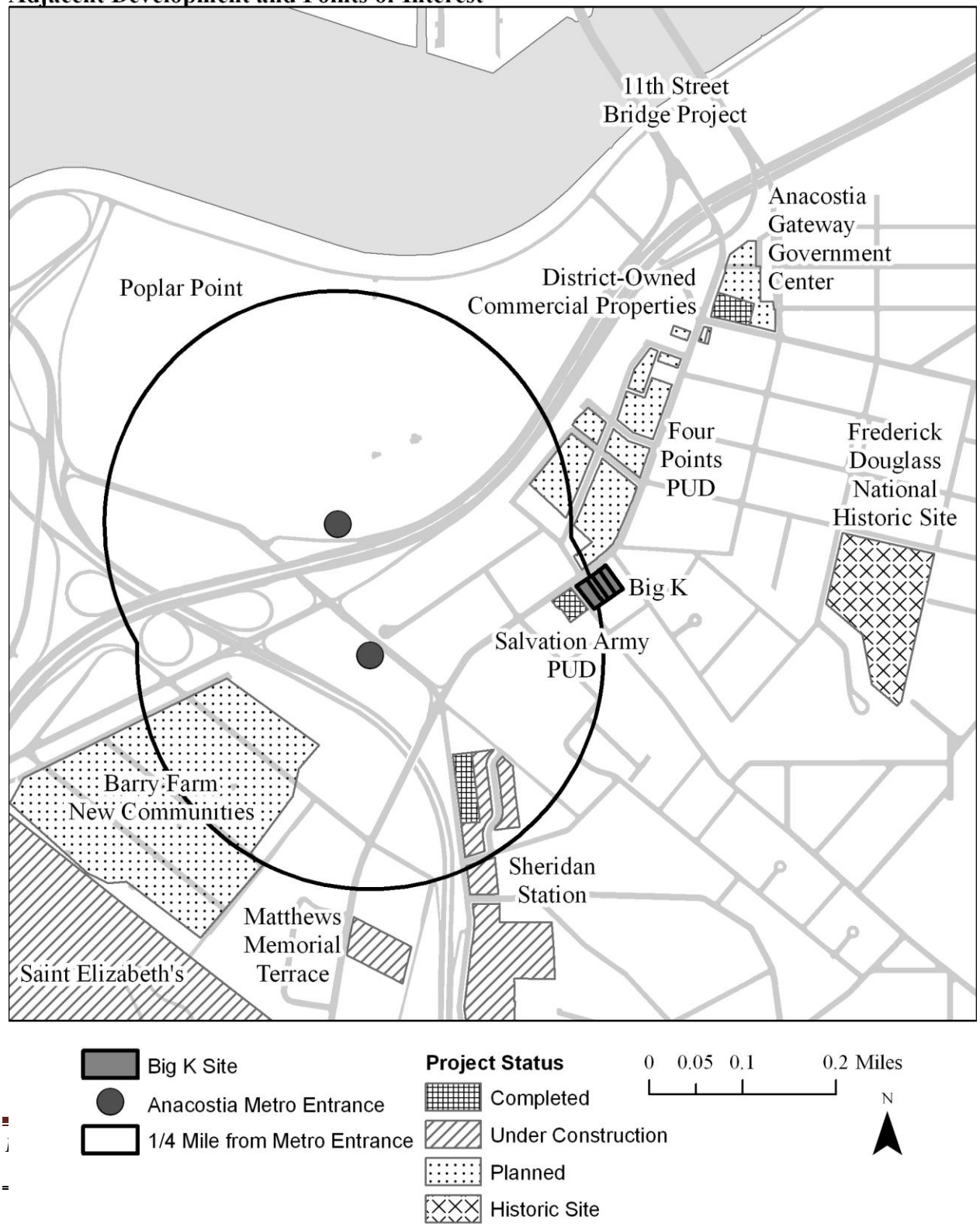
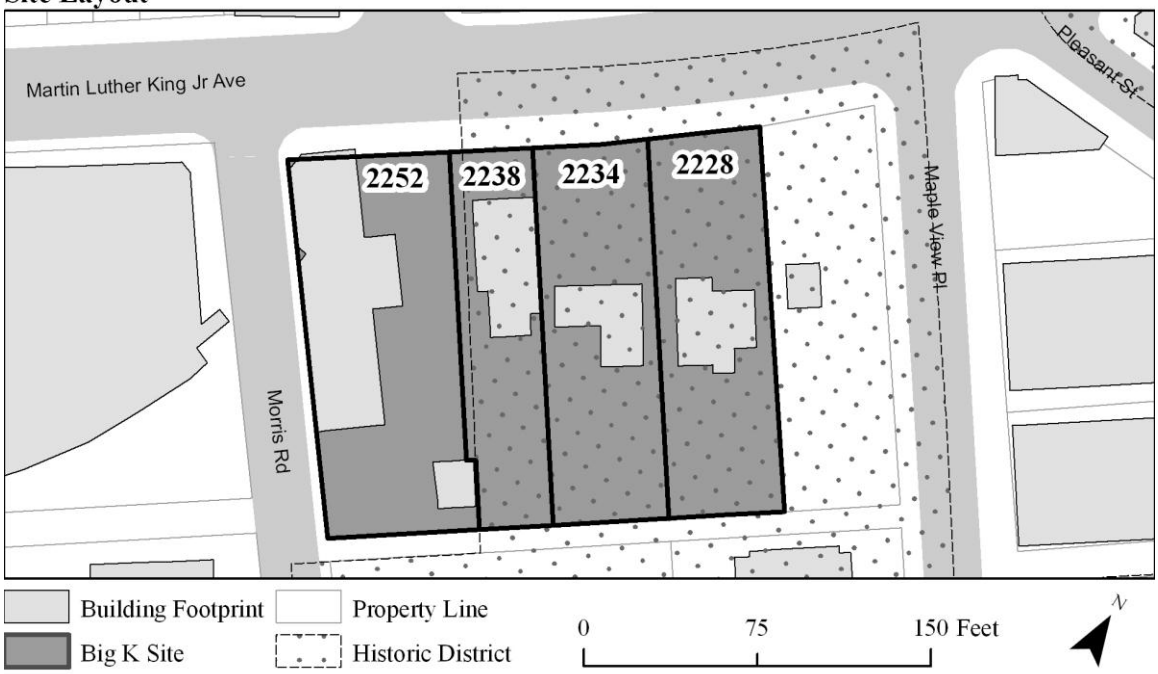
**Adjacent Development and Points of Interest**



**Site Layout**




**2.2.** Ownership and Property Conditions

All of the Properties in the Development Site are owned by the District, and were acquired with Community Development Block Grant funds in 2010. The site will be conveyed to the selected Developer for the purpose of developing the site in accordance with the proposed Development Plan, for the Offer Price listed in the Developer's pricing proposal or an amount subsequently negotiated between the District and the selected Developer. The District shall convey the Development Site pursuant to the terms of a Property Disposition Agreement in the form attached hereto as **Exhibit B** ("PDA"), and the Developer shall take title to the Development Site and each Property therein in "as-is" condition, without any representations or warranties.

The District makes no representations regarding the character of soil or subsurface conditions or the existence, location or condition of any utilities which may serve the Development Site or any Property within such Development Site. The zoning information listed herein is for informational purposes only. PADD makes no representation as to the accuracy of any zoning information. Upon execution of the **Waiver, Indemnity, and Premises Use Certification (Exhibit F)**, each developer will be provided an opportunity to view the property during the solicitation period. Each

developer is strongly encouraged to conduct its own research and should draw its own conclusions concerning the conditions that may affect the methods or cost of development. Developers shall be responsible for all pre-development expenses incurred to assess the conditions of the Property.

## 3. Submission Requirements and Selection Criteria

### 3.1. Development Plan

Developers are required to submit a development plan that provides a narrative description of the proposed development project for the Development Site or individual Properties. The development plan must be consistent with the agency goals and development vision described in Sections 1.3 and 1.4, and should also incorporate elements that demonstrate the Developer's own vision for the site. At a minimum, development plans must address land use and ownership, zoning, green building, historic preservation, pricing and financing, community benefits, and developer qualifications. Detailed guidelines and parameters for each of these items are described throughout Section 3.

#### 3.1.1. Land Use and Ownership Model

Developers should submit a brief narrative on the ownership model to be used for any commercial and/or retail units . The narrative should include a description of the Developer's experience with the ownership model proposed.

In narrating the proposed land uses for the site, Developers should follow the guidelines outlined below:

##### 3.1.1.1. Commercial

The Big K Community Advisory Group recommends that development on the Site contain neighborhood-serving retail and small business office space, including a small business incubator. This portion of the narrative should describe the type of commercial and/or retail uses, ownership, and rent structure proposed. This section should also include the net versus gross square footage and total commercial units to be produced. Briefly describe the quality and grade of construction materials, equipment, and finishes if providing tenant improvements for each unit. In addition to the above, please provide the following information described below for rehabilitation

and restoration work, additions to historic properties, and new construction projects:

- Provide conceptual facades, floor plans showing the location of all commercial units. Site plans should show the relationship between the proposed structure and the structures on the immediately adjacent lots with consideration to existing setbacks and other zoning requirements. Please identify all zoning relief required if proposing something other than a matter of right project;
- Describe the amenities and rent structure;
- Address exterior design issues and parking; and
- Provide a detailed description of the scope of work.

3.1.1.2. Residential (if applicable)

The Big K Community Advisory Group recommends that the Site include no housing.

3.1.2. Zoning

Preference will be given to developers that submit Offers for Projects that may be constructed as a matter of right over those which require regulatory relief. Developers should review all applicable District zoning regulations while preparing their Offers. Please refer to Title 11 of the District of Columbia Municipal Regulations ("DCMR") for a complete list of zoning provisions and requirements. Developers may elect to develop the Development Site and Properties to conform to the existing zoning designation or to apply for rezoning of the classification of the property, including a Planned Unit Development (PUD), a zoning variance, or special exception. Developers will be responsible for all costs associated with obtaining the required zoning, PUD, zoning variances or special exception. The Developer should detail its zoning strategy and present an estimated schedule that fully describes each step in the approval process necessary for the entitlements assumed in the Offer. Closing on the Property will not occur unit all permits have been obtained by the Developer.

Additional information regarding existing zoning and pending changes may be obtained from the District's Office of Planning: http://planning.dc.gov/DC/Planning.

3.1.3. Green Building Act

In accordance with the Green Building Act of 2006 and the goals of DHCD, all proposals shall comply with the following green building standards for projects of 10,000 SF or more, which involve 15% or more public financing as broadly defined in the Act:

3.1.3.1. Non-residential buildings:

All non-residential projects will be required to meet the Leadership in Energy and Environmental Design (LEED) Silver standard, available online at www.usgbc.org.

The following additional standards also apply:

- New construction – Energy Star Target Finder Tool minimum score (75) & annual benchmarking with Energy Star Portfolio Manager (See Energy Star websites in "Additional Resources")

- Rehabilitation– exempt from Energy Star Target Finder minimum score requirement. However, benchmarking with the Energy Star Portfolio Manager, and the Energy Star Target Finder scoring, are still mandated.

3.1.4. Historic Preservation

3.1.4.1. The goal of DHCD is to redevelop the Properties in a manner that preserves the history of the Anacostia neighborhood and provides amenities and/or services to the community. Three of the four properties included in this Solicitation are located within the Anacostia Historic District and are subject to the corresponding regulations, enforced by the DC Historic Preservation Office and the Historic Preservation Review Board.

3.1.4.2. For the past year, DHCD has been working to procure reports that would enable the District to apply for permits to stabilize and preserve the properties which are severely deteriorated. The reports indicate that the structure located at 2228 Martin Luther King Jr. Avenue SE is critically

unstable to the point that there is a threat to safety, and the structural engineer has recommended that the property be demolished.

3.1.4.3. Demolition of 2228 Martin Luther King Jr. Ave SE has been approved by the Historic Preservation Review Board and will occur prior to Closing. To the extent possible, significant architectural details will be salvaged and stored. Future development on this parcel will require: (1) integration of the salvaged materials into the new building, (2) use of the salvaged materials to help replicate specific features, or (3) development of a historically-compatible design. DHCD will look favorably upon proposals that creatively incorporate the historic character of the razed building into the new design.

3.1.4.4. In addition, developers shall preserve the structures at 2234 and 2238 Martin Luther King Jr. Ave SE, both of which are located within the Anacostia Historic District. The developer shall also make an effort to preserve the structure at 2252 Martin Luther King Jr. Ave., S.E., despite it being outside of the historic district.

3.1.4.5. Any new structures or additions to the existing buildings, constructed on the site must be compatible with the existing historic buildings, with similar character, form, setbacks, height, and articulation.

3.1.4.6. Once a developer is selected from the solicitation process, the conceptual design will be submitted to the Historic Preservation Review Board for review. More information regarding Historic Preservation in the District is available online athttp://planning.dc.gov/DC/Planning/Historic+Preservation.

3.1.5. Additional Considerations

3.1.5.1. Developers should consider all applicable Federal and District laws and regulations when preparing development plans.

3.1.5.2. Developers should conduct their own due diligence, including design and engineering for the Project and will be held accountable for design, cost, and pricing upon submission of an Offer. Developers should include in their Offers the development plan that will work best to achieve the goals of the District and community stakeholders.

**3.2.** Pricing Proposal and Financing Plan

3.2.1. Pricing Proposal

3.2.1.1. Offers should propose a total Development Site offer price (the "Offer Price") with the greatest economic benefit to the District. The Offer Price should be assumed to be equal to the fair market value of the Properties comprising the Development Site, reduced, if necessary, by the amount necessary to make the proposed Project economically feasible. Should the Developer propose a reduced price, a detailed explanation for the requested reduction must be provided.. Please note, in accordance with the Property Disposition Agreement ("PDA"), the Developer is required to provide the District with an initial deposit of at least ten percent (10%) of the purchase price at the time of a fully executed PDA, and a Performance Letter of Credit (as defined in Section 4.5 herein) at closing on the Development Site.

3.2.1.2. The Developer's Kit must evidence the developer's ability to pay the Offer Price as calculated through the cash flow analysis (See Exhibit A, Form #10). This is based on the initial commercial rental rates and the total development costs or the rents over the period of holding, expenses, and assumed capitalization rate.

3.2.1.3. Each offer shall contain a statement of proposed financing, which should include development cost budget, amount and sources of debt and equity financing. Developers should provide documentation for funding commitments, and their Offers should evidence a significant amount of "at risk" capital during the pre-development and development process. The Developer should include documentation of all financing and/or investment commitments, terms and covenants, as well as the availability of said funds. The Developer shall not include funds from the District operating or capital budget (unless appropriated for such purpose on a multi-year basis) or unidentified Federal funding in its funding plan.

3.2.2. Financial Plan and Capacity

To illustrate financial capacity, the Developer shall include the following:

3.2.2.1. A description of the financial capacity of the developer and its team members, including, but not limited to, audited financial statements (balance sheets, profit and loss statements, statements of cash flows), letters of credit and lines of credit.

3.2.2.2. A description of the nature and share of each team member's financial investment in the acquisition and redevelopment of the Development Site.

3.2.2.3. A proposed financial structure between the Developer an**d the District.**

3.2.2.3.1. In determining economic feasibility, the Developer shall take into account all available subsidies and shall seek such subsidies to the greatest extent possible.

3.2.2.4. A proposed financing plan for the overall proposed redevelopment, including a listing of all anticipated sources of financing (pre-development, land acquisition, construction and seller financing, if any). The Developer should provide sufficient detail for the District to determine the feasibility of the proposed financing plan, including:

3.2.2.4.1. An estimate of proposed pre-development costs and statement of capacity to carry said costs, how said costs will be paid for and how said costs will be factored into the financing of the Project;

3.2.2.4.2. Statement of the proposed financial structure, including penalties for lack of performance;

3.2.2.4.3. Satisfactory evidence of the developer's ability to secure financing for the Project; and,

3.2.2.4.4. Specifics as to the sequencing of the development process including the proposed sources and uses of funds provided in Exhibit A, Form #6, including the timing of the funding commitments to the Project.

3.2.2.5. Functional pro forma model, provided in the Developer's Kit as **Exhibit A, Form #4**, with detailed underlying assumptions (submitted on CD in Excel) which calculates the internal rate of return, return on equity and return on cost. A developer may submit their own pro forma model, so

long as it includes at a minimum the information provided as applicable in **Forms #4**.

3.2.2.6. Detailed development budget, provided in the Developer's Kit as **Exhibit A, Form #5**, (submitted on CD in Excel) for the proposed Project plan(s) which includes a summary and cost breakdown of each line item.

3.2.2.7. Submission of a proposed Schedule of Performance in the form attached hereto and included in the Developer's Kit (**Exhibit A, Form #2)**which details each step in the development process.

**3.3.** Community Benefits

3.3.1. Community Outreach

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

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

3.3.1.2. 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 Developer's proposed development.

3.3.1.3. 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.

3.3.2. First Source Hiring

3.3.2.1. Prior to closing, the Developer shall execute a First Source Employment Agreement with the Department of Employment Services, see sample form attached hereto as **Exhibit D** (the "First Source Employment Agreement"). Developers should provide an estimate of the number of new employment opportunities anticipated being created as a result of the project. Offers should also describe the intake process the developer will utilize, including an on-the-site intake process for contracting and

subcontracting opportunities. Developers should cite examples of previous First Source Hiring accomplishments.

3.3.2.2. Preference will be given to developers that 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 §§ 32-1401 et seq. of the Code. 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

3.3.3. Certified Business Enterprise Requirements

3.3.3.1. Developers will be required to execute a Utilization and Participation Agreement with the Department of Small and Local Business Development prior to closing with the District, see sample form attached hereto as **Exhibit C**.

3.3.3.2. Developers should provide equity and development opportunities for Local and Small Disadvantaged Business Enterprises ("**LSDBE**") and contracting opportunities for Certified Business Enterprises ("**CBE**").

3.3.3.3. Developers should provide detailed plans on how residents living near the Development Site will be trained and offered apprenticeships in connection with the Project.

3.3.3.4. Developers should include copies of any binding letters of intent ("**LOI**") between the lead developer and an LSDBE equity partner(s), and an LSDBE development partner(s) and/or a CBE contractor(s).

3.3.3.5. Developers who are CBEs shall receive preference in the evaluation process. If the developer or development team is composed of CBE entities, developer shall submit: (1) company name; (2) certification number; (3) status of company; and (4) term of certification for each CBE firm. Proposals should describe the service(s) each team member will provide and the percentage of the total project cost for which each CBE firm is responsible.

3.3.3.6. Preference will be given to developers that include local, neighborhood-based businesses. Evidence of the inclusion of such businesses shall be in the form of written confirmation which shall include the scope and details of the said businesses' involvement in the Project.

**3.4.** Executive Summary

The Developer shall provide a summary with a focus on the developer's vision for the Project. While the summary will not be a formal evaluation factor, it will be used as part of an integrated assessment of the developer's qualifications. In its summary, the developer shall: (1) address how the Project will benefit the existing residents; (2) articulate the Developer's vision for the Project;(3) discuss how well the Project fits into the surrounding area landscape; and (4) illustrate the value and types of synergies it will create.

3.4.1. Team Members.

The developer shall identify the following key team members of the development team: master developer (firm or joint venture partners), CBEs, architect, engineer, financing team (proposed construction lenders, major investors, and other key consultants, if any, related to the financing plan), and legal counsel. For each team member, developer shall identify:

3.4.1.1. Name, address, telephone number, EIN, and fax number.

3.4.1.2. Identity of each principal, partner, or entity of said team member and said team member's roles or titles within the entity comprising the developer.

3.4.1.3. Name, address, telephone number, fax number, and e-mail address of the representative authorized to act on behalf of the developer, who will be available to respond to questions or requests for additional information.

3.4.1.4. Identification of any affiliation or other relationship between any of the members of the developer and any development company, parent company, or subsidiary.

3.4.1.5. Identification of any personal or professional relationship among or between any members of the developer 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.

3.4.1.6. A list of the professionals the developer will be employing or retaining for the Project. For each professional firm, developer should include a description of the staff capabilities, the resumes of all professional staff who will be working on the Project, a description of their role on the Project and their past relevant experience.

3.4.1.7. Satisfactory evidence with respect to the developer and its team members that all tax liabilities and other government impositions are current and that there are no ongoing litigations in which the District is a party that relates to any team member of the developer or to any other entity or individual having a controlling interest in the entity (or entities) that comprise the developer (or, if such litigation exists, the name and civil action number of such litigation and a description of the subject matter of such litigation).

3.4.1.8. Summary of the experience of the developer or its team members partnering with community groups, institutions, or the District during the planning and redevelopment of a community and experience of team members in developing commercial and retail projects, including a description of the project, the community partnerships and the actions taken to include the community's input.

3.4.2. Qualifications and Experience.

Developer shall identify:

3.4.2.1. In the developer's summary of projects in **Exhibit A, Form #8**, list three (3) to five (5) relevant projects, which developer or its team members have had primary involvement, which demonstrate success in urban commercial or mixed-use projects. Favorable consideration will be given to Solicitations that delineate prior successful experience with historic preservation projects or have identified appropriate development team members with historic preservation experience. Favorable consideration will be given to Solicitations that delineate prior successful experience working with other DHCD programs. For each relevant project, developer shall identify the following:

- Development Team Name
- Project Name
- Location/address of Project
- Status
- Project Scope (new construction, rehab, commercial, residential, mixed use)
- Estimated total development cost at time of award or start of the project, actual total development cost, including all changes and exercised options
- Original start and completion date, current and actual completion date
- Name and telephone number of persons familiar with the project who may offer performance letters of recommendation and respond to inquiries from the District

3.4.2.2. An organization chart and a summary of qualifications of the team's senior-level staff who will be directing this project, including a description of their roles and relevant experience.

3.4.2.3. The status of the Developer's organization (whether a corporation, a non-profit corporation or charitable institution, a limited partnership, a limited liability company, or other entity) indicating under which laws it is organized and operating, and a brief history of the organization and its principals. Please include a certificate of good standing from the formation jurisdiction and a certificate of good standing showing that it is registered to do business in the District.

3.4.2.4. A copy of any written agreement or document creating any entity responding to this Solicitation. The principals, partners, or joint-venture partners who are part of the developer's team must be eligible to transact business both within and with the District.

3.4.2.5. A statement regarding any debarments, suspensions, bankruptcy or loan defaults on real estate development projects and/or government contracts of developer or any member of the development team.

3.4.2.6. References for the Developer and its team members, including names, addresses, e-mail addresses, and telephone numbers. References should be prepared to respond to inquiries regarding the design, financing, and development of prior projects.

3.4.2.7. List of all current projects in the developer's pipeline and a disclosure of all current or pending DHCD financing or other DHCD related projects.

3.4.2.8. Such other information developer believes will assist the District in evaluating the capabilities of the developer, the design architect, and any other team member who will be participating in the Project. The District may request additional information from the authorized representatives, if deemed necessary, to facilitate the consideration of the developer's submissions.

3.4.3. Implementation Strategy.

Developer shall identify and describe:

3.4.3.1. Any possible difficulties implementing the Project outlined in the Offer and possible solutions for those difficulties.

3.4.3.2. Any required zoning changes and/or approvals, and proposed schedule of obtaining the required approvals.

3.4.3.3. Developer's plan to guarantee the implementation of the development plan, demonstrating the following:

- Developer's willingness to assume the risk of pre-development work;
- Developer's phasing plan, if any, for the redevelopment;
- Developer's timetable and milestones for the next 24 months, including ability to mobilize and commence development programming immediately upon selection;
- Developer's time and financial commitment to guarantee to the District that Developer's milestones will be met;

3.4.3.4. Developer's property rights on parcels within close proximity to the Development site, if any; and

3.4.3.5. Developer's approach and strategies to working with the community to ensure meaningful involvement in the development process and mitigation of any negative impact of the potential development project on the surrounding community. Please see the Development Schedule Worksheet included in the Developer's Kit (**Exhibit A, Form #2**).

3.4.4. Conflict of Interest

In its response to this Solicitation, developer should represent and warrant the following to the District:

3.4.4.1. The Offer 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 Solicitation or otherwise.

3.4.4.2. No person or entity employed by the District or otherwise involved in preparing this Solicitation on behalf of the District (i) has provided any information to developer which was not also available to all entities responding to this Solicitation, (ii) is affiliated with or employed by developer or has any financial interest in developer, (iii) has provided any assistance to developer in responding to this Solicitation, or (iv) will benefit financially if developer is selected in response to this Solicitation.

3.4.4.3. The Developer has not offered or given to any District officer or employee any gratuity or anything of value intended to obtain favorable treatment under this Solicitation or any other solicitation or other contract, and developer has not taken any action to induce any District officer or employee to violate the rules of ethics governing the District and its employees. Developer has 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 Solicitation. As used herein, "anything of value" shall include but not be limited to any (a) favors, such as meals, entertainment, transportation (other than that contemplated by this Solicitation, if any, or any other contract with the District), etc., which might tend to obligate a District employee to developer, or (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.

3.4.4.4. The developer 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 developer employee, officer, agent, subcontractor, or labor official, or other person for any purpose which may be related to the procurement of this Solicitation by developer, or which may affect performance in response to this Solicitation in any way.

3.4.5. Developer's Kit

A sample of each of the required evaluation spreadsheets is available in **Exhibit A**.

**Note:** This tool kit is included for the sole purpose of serving as a model for putting together your proposal to the solicitation. Please modify the spreadsheets as needed to fit your proposal.

**Form#1.** **Property Identification Spreadsheet**
This spreadsheet should be used to identify, by address, the types of development (commercial and/or retail).

**Form #2.** **Development Schedule**
Please identify the projected month and year for development benchmarks. The timeline should take into account, where applicable, any board of zoning adjustments action required.

**Form #3.** **Commercial Tenant Assumptions**

**Form #4.** **Commercial Proforma** (Use as a guide)
This form must be used for any commercial or retail portion of the development. This form documents the net operating income over ten years.

**Form #5.** **Acquisition and Development Costs**
This form is to be used to project financing assumptions, as well as acquisition, hard costs, and soft costs.

**Form #6.** **Sources and Uses Spreadsheet**

This spreadsheet is to be used to list project assumptions, sources and terms of funds available. A project budget is also included to document the uses.

**Form #7.** **Cash Flow Analysis**
This spreadsheet documents the cash flow over ten years, factoring in financing. It also allows for a projection of investment returns to the developer and suggests an Offer Price based on stabilized cash flow and cap rate.

**Form #8.** **Summary of Projects**
Provide details of projects currently under construction, including original and estimated start dates, estimated completion date, project scope, and estimated cost.

**3.5** Section 3.

Developer shall comply with the following:

3.5.1 Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR Part 135. During construction of the project, developer will comply with and cause its successors, assigns and agents to comply with 24 CFR Part 135. The Section 3 requirement applies to assistance that exceeds $200,000.00 or where the contract or subcontract exceeds $100,000.00.

3.5.2 All Section 3 covered contracts must include the following clause in its entirety:

3.5.2.1 The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted project covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low- income persons, particularly persons who are recipients of HUD assistance for housing.

3.5.2.2 The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3.5.2.3 The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment practices can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

3.5.2.4 The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

3.5.2.5 The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulation of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24

CFR part 135.

3.5.3 Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, default under the Loan Documents, and debarment or suspension from future HUD-assisted contracts.

3.5.4 The First Source Program which requires that contractors and subcontractors of a government-assisted project totaling $100,000 or more comply with the District's goals for the recruitment, referral and placement of D.C. residents. See D.C. Law 5-93, as amended, D.C. Official Code 2-219.01 *et seq.*

3.5.5 The Federal statutory and regulatory requirements of the Davis Bacon Act (40 USC Section 276a-276a-7).

## 4. Submission Requirements and Selection Process

### **4.1.** Pre-Offer Procedures

4.1.1. An orientation meeting will be held in accordance with the schedule in Section 4.3. For those who intend to respond to this Solicitation, attendance at the orientation meeting is strongly encouraged. The purpose of this meeting is to provide a forum for all concerned parties to discuss the Development Sites and to network with PADD and other real estate professionals. In the event that any discussions or questions at the pre-proposal conference require official additions, deletions, or clarifications of this Solicitation, or any other document, PADD, in its sole discretion, will address such revisions in writing and make such revised Solicitation available at PADD's offices and on the DHCD website.

4.1.2. PADD will provide an opportunity for Developers to visit the Development Site immediately following the orientation meeting. Any developer that wants to visit the Properties or Development Site must sign and return the **Waiver, Indemnity, and Premises Use Certification** attached hereto as **Exhibit F**. The Developer shall hold PADD and the District harmless from and against any and all liabilities, actions, claims, suits, losses, judgments and damages caused by entry onto the Properties. Please note that the Waiver, Indemnity, and Premises Use Certification will be valid only for the scheduled visit following the orientation

meeting, after which time no developer shall have any right to visit the Property or Development Site in connection with this Solicitation.

4.1.3. Offers shall be submitted as follows:

4.1.3.1. Developers shall respond to each item included in Section 3, in the order listed, and separate each item with tabs marked to indicate the section number. Developers should include site plans, tables, charts, and any other applicable documents, to the extent possible.

4.1.3.2. At a minimum, Offers for each Development Site should address all of the submission requirements listed in Section 3 and stated in this Solicitation. Offers submitted without addressing all such items may be deemed incomplete and therefore, may be rejected and withdrawn from consideration.

4.1.3.3. All Offers shall be typed in 12-point font on 8½'' x 11'' standard letter-size paper, bound on the long side, with material on one side only and tabs to separate sections.

4.1.3.4. Each Offer shall not exceed 25 pages, not including credit references, LOIs, renderings, excel-based worksheets/models, tables, charts, etc.

4.1.3.5. Offer materials will not be returned.

4.1.3.6. Six (6) printed, bounded copies of each Offer must be submitted along with an electronic copy (a complete PDF File) along with the Developer's Kit on compact disc (CD) to PADD at the address below by August 3, 2012 **(the "Submission Date")**:

Property Acquisition and Disposition Division
Department of Housing and Community Development
1800 Martin Luther King Avenue, SE, Suite 315
Washington, DC 20020
202-442-7169 (office)
202-654-6161 (fax)
Attn: Denise L. Johnson

No Solicitation shall be accepted after 3:00 p.m. on the Submission Date. There will be no exceptions to this policy.

4.1.4. While the District, through PADD, may enter into negotiations with one or more developers based on offers submitted in response to this Solicitation, this Solicitation does not commit PADD or the District to select any developer or to enter into negotiations with any developers that may respond. The District reserves the right to reject any Offer it deems incomplete or unresponsive to the submission requirements, to amend this Solicitation or to reject all Offers and re-issue a Solicitation at a later date at its sole discretion.

4.1.5. After review of one or more Offers, the District may request submission of additional information from some or all of the developers, within the District's sole discretion.

4.1.6. Team members may participate in submissions from more than one developer. If a developer wishes to change the composition of the proposed development team at any time in the selection process after it has submitted its offer to the District, the developer must notify the District in writing. The District reserves the right to evaluate the proposed change to the development team and eliminate the developer from further consideration. The District will require similar notification and approval rights of any change to the development team following the award.

**4.2.** Selection Process and Evaluation Team

4.2.1. PADD will determine in its sole discretion whether each Offer received in response to this Solicitation is complete according to the guidelines set forth herein (a "**Responsive Offer**"). Any developer that submits an incomplete and unresponsive Offer will be notified by PADD in writing after the submission deadline. The decision of PADD in this regard is final and will be explained to the developer upon request.

4.2.2. A selection panel selected by PADD will be established to review and evaluate the Responsive Offers and to select one or more of the Responsive Offers.

4.2.3. The selection panel will evaluate each Responsive Offer based on the information requested in this Solicitation. The selection panel may in its sole discretion request that one or more developers modify their Offers, provide additional information or provide a "best and final offer" for the selection panel's review.

4.2.4. Once the selection panel has selected the winning developer(s), it will inform PADD and the Director of DHCD of its recommendations. Once the Director has approved the decision of the selection panel, PADD will notify the selected developer(s).

4.2.5. Once an Offer has been accepted and the developer has been selected and notified by PADD, the selected developer may not withdraw its Offer. Any selected developer that elects to withdraw an accepted Offer will be precluded from responding to and applying for any DHCD requests for proposals and/or solicitations for a period of one (1) year. Such penalty period shall run one (1) year from the date of withdrawal.

**4.3.** Proposal Submission and Selection Process Timetable

PADD shall select the winning Offer within forty five (45) days of the submission deadline and notify the selected developer by award letter. The selection process will follow the schedule outlined below. All offers must be submitted to PADD by **3:00 p.m**. **August 3, 2012.** See Section 4.1 for details.

| **Action** | **Development Site Award Timeline** |
|---|---|
| Release Date | June 4, 2012 |
| Orientation Meeting | June 27, 2012, DHCD, 1st Floor Conference Room at 11:00 a.m. |
| Submission Deadline | August 3, 2012 |

These above-referenced dates are estimated timelines and shall not be binding on PADD or District.

**4.4.** Questions and Further Information

Any questions regarding this Solicitation should be submitted in writing via e-mail to DeniseL.Johnson@dc.gov or fax to 202-645-6727. Responses to questions and other clarifications will be emailed to all developers and posted on the DHCD website.

**4.5.** Award

4.5.1. The District, through PADD, and the selected developer shall negotiate a PDA, based on the awarded proposal.

4.5.2. If the District and the selected Developer(s) are unable to agree on the final terms of a PDA within Ninety (90) days after the date of the selection notification, PADD, in its sole and absolute discretion, may terminate negotiations and select a different developer from the developers who submitted offers, re-issue this Solicitation or take such other measures as it deems reasonable, appropriate or necessary.

4.5.3. Upon execution of the PDA, the developer shall submit to the District an initial deposit of $25,000. The initial deposit shall secure the developer's performance under the PDA and will be held by a third-party escrow agent and applied to the purchase price at closing on the Development Site. At the time of closing, the developer shall provide the District with a Performance Letter of Credit (as defined below).

The Performance Letter of Credit is an amount of money equal to the lesser of either: (i) 1% of the cost of the improvements, or (ii) $500,000, in the form of any of the following: a letter of credit from a reputable bank, a payment and performance bond from a reputable surety company, or a cash reserve to be held in escrow by a title company chosen by the District, to secure the developer's performance of its obligations under the Construction Covenant in the form attached to the PDA. The District shall also require that an affiliate of the developer, approved by the District, execute a Development and Completion Guaranty in the form attached to the PDA guaranteeing the completion of the Project in accordance with the Construction Covenant.

4.5.4. A developer shall be expected to close on a Development Site no later than sixty (60) days after the satisfaction of the public hearing condition pursuant to the PDA. Closing for the Property shall not occur prior to zoning approvals and building permits have been finalized.

4.5.5. The developer shall be expected to complete construction within 24 months of closing on the acquisition of the Property or Development Site, unless special circumstances such as the Board of Zoning Adjustment ("BZA") requirements dictate a longer period.

## 5. Reservation of Rights and Miscellaneous Provisions

### 5.1. District Reservations

The District reserves the right to:

- Cancel or withdraw the Solicitation prior to or after the submission deadline;
- Modify or issue clarifications to the Solicitation prior to the submission deadline;
- Reject any submission it deems incomplete or unresponsive to the submission requirements;
- Consider a submission that is incomplete or unresponsive to the submission requirements;
- Reject all submissions that are submitted under the Solicitation for any reason; and
- Modify the deadline for submissions or other actions.

The District may exercise one or more of these rights, in its sole discretion, as it may deem necessary, appropriate, or beneficial to the District.

**5.2.** Notice of Modifications

The District shall post on its website (http://dhcd.dc.gov) notices or information regarding cancellations, withdrawals, modifications to deadlines, and other modifications to this Solicitation. Developers 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 developers.

**5.3.** Changes in Developer Information

If information provided in a submission changes (e.g., change or addition to any of the developer's team members or new financial information), the developer shall provide updated information in the same format for the appropriate section of the Solicitation and the District may consider the modified submission. Developer may not change the composition of its team at any time without the District's prior written approval, in its sole discretion, provided; however, that nothing shall prohibit short-listed developer teams from (i) adding new CBE parties to their teams or (ii) increasing the level of CBE equity participation on their teams.

**5.4.** Ownership and Use of Offers

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.

**5.5.** Restricted Communications

Upon release of this Solicitation and until selection of a developer, developers shall not communicate with PADD staff about the Solicitation or issues related to the Solicitation except as authorized in this Solicitation.

**5.6.** Non-Binding

The selection by the District of a developer indicates only an intent by the District to negotiate with the developer and the selection does not (i) constitute a commitment by the District to execute any agreement with the developer or (ii) confer onto developer any property right, interest or expectancy.

**5.7.** Confidentiality

5.7.1. Offers and all other information submitted in response to this Solicitation are subject to the District's Freedom of Information Act ("**FOIA**") under Code § 2-531 et seq., (2008 Supp.), 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. Section 2-534 of the Code states that information may be exempt from disclosure, if it is "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."

5.7.2. If a developer provides information that it believes is exempt from mandatory disclosure under FOIA, the developer shall include the following legend on the title page of the submission:

**THIS PROPOSAL CONTAINS INFORMATION THAT IS EXEMPT FROM MANDATORY DISCLOSURE UNDER THE DISTRICT'S FREEDOM OF INFORMATION ACT ("FOIA").**

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

**THIS PAGE CONTAINS INFORMATION THAT IS EXEMPT FROM MANDATORY DISCLOSURE UNDER THE DISTRICT'S FREEDOM OF INFORMATION ACT ("FOIA").**

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

PADD generally will endeavor not to disclose information designated by the developer as exempt information; PADD has the right to independently determine whether the information designated by the developer is exempt from mandatory disclosure, and shall comply with all applicable FOIA laws and court orders regarding the disclosure of any information that is determined not to be exempt. Moreover, exempt information may be disclosed by PADD, at its discretion, unless otherwise prohibited by law, and the District shall have no liability related to such disclosure.

**5.8.** Non-Liability

By participating in the Solicitation process, the developer 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 Solicitation, including any costs of rezoning, site studies, appraisals, or surveys.

**5.9.** Other Limiting Conditions

5.9.1. The Project is expected to "stand alone," thus, the developer is prohibited from cross collateralizing and cross defaulting the project with any other assets. Moreover, the developer is prohibited from assigning, pledging, hypothecating or otherwise transferring its interest in the ownership of the Project in part, or in its entirety, without prior written District approval. Any additional debt shall require prior written District approval.

5.9.2. Under no circumstances shall the District be liable for any real estatebrokerage commissions, finder's fees or other forms of compensation related in any way to activities undertaken by any person as a result of this Solicitation.

5.9.3. The District has the right to begin negotiations with the next preferred developer in the event that a PDA cannot be executed within the allotted period of negotiations with a prior selected developer. The District may terminate such negotiations if the developer introduces comments or changes to a PDA that are inconsistent with previously submitted offer materials.

5.9.4. The District fully expects and requires that the selected developer will not alter the proposed Project, including its proposed construction schedule and process.

However, should certain deteriorating market conditions warrant a Project alteration, the District, in its sole discretion, may authorize such an alteration. As a general matter, the District will consider such alterations, if it believes such market conditions would impact all other developers that submitted offers in response to this Solicitation.

5.9.5. The District reserves the right to memorialize modifications to any proposal in a written agreement between the District and developer where such modifications arise in the course of best and final negotiations between the parties.

5.9.6. Developers are hereby advised that the District is subject to various laws, rules, policies and agreements that impose ethical constraints upon, among other situations: (i) current District employees and consultants with respect to developers (and members of their teams) on projects where such employee/consultant had "personal and substantial" participation or official responsibilities and (ii) current and former District employees and consultants with respect to post-employment restrictions.

5.9.7. Members of developers (whether corporate or individual) are prohibited from conducting any negotiations for employment or consulting agreements (or other forms of financial benefits) with any current District employees/consultants who are "personally and substantially" participating on this Project or from hiring any such employees/consultants, during the conduct of this competition.

5.9.8. Members of developers (whether corporate or individual) must disclose in their initial offers the names of employees (or consultants retained for this project) who, within the immediate past three years, were District employees/consultants. On a going forward basis, members of developers will be required to provide the District with notice of updates within five (5) days of any new hires/retained consultants.

5.9.9. Failure to comply with either of these obligations may result, in the District's sole discretion, in the disqualification by developer from the solicitation or rescission of a selection or agreement with the District.

5.9.10. Developers must immediately disclose the existence of any employment discussions or consulting agreements with or hiring of current District employees that occur contrary to the prohibition in section 5.9.7. Notwithstanding such disclosure, the District reserves the right to disqualify or rescind award to a company whose member(s) section 5.9.7.

**Exhibit A**

**DEVELOPER'S KIT**

**The following exhibit includes a number of helpful forms to prepare an Offer that is responsive to this Solicitation.**

**Government of the District of Columbia**

**Exhibit B**

**PROPERTY DISPOSITION AGREEMENT**

**Government of the District of Columbia**

**Exhibit C**

**SAMPLE CERTIFIED BUSINESS ENTERPRISE UTILIZATION AND PARTICIPATION AGREEMENT**

**Government of the District of Columbia**

**Exhibit D**

**FIRST SOURCE EMPLOYMENT AGREEMENT**

**Government of the District of Columbia**

**Exhibit E**

**AFFIRMATIVE ACTION PLAN**

**Government of the District of Columbia**

**Exhibit F**

**WAIVER, INDEMNITY, AND PREMISES USE CERTIFICATION (Pre-bid use only)**

**Government of the District of Columbia**

**Exhibit G**

**RIGHT OF ENTRY AGREEMENT**

**Government of the District of Columbia**

**Exhibit H**

**LEAD AND ASBESTOS REPORT**

**Government of the District of Columbia**

**Exhibit I**

**STRUCTURAL REPORTS FOR 2228 & 2234 MARTIN LUTHER KING JR. AVE., S.E.**