

Department of Housing and Community Development
1800 Martin Luther King Jr. Avenue SE
Washington, DC 20020

Request For Proposals

202 36th St SE

Solicitation Released

3/16/2023

Responses Due:

7/21/2023



GOVERNMENT OF THE
DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR

INTRODUCTION

The Government of the District of Columbia (the “District”), through the Department of Housing and Community Development’s Property Acquisition and Disposition Division is releasing this Request for Proposals (“RFP”) as it seeks to receive project proposals (each a “Proposal” and collectively “Proposals”) from individuals and/or teams (each a “Respondent” and collectively “Respondents”) for the redevelopment of the parcel identified by the District of Columbia Tax Assessor’s Office as Square: 5421, Lot: 0022, located at 202 36th St SE (the “Development Site”) (see Figure 1: Development Parcel Map). The property is currently improved by a vacant, two-story structure.

DHCD, through this RFP, will rehabilitate this vacant and blighted home into much need affordable housing, continuing the push to meet the District-wide housing goals of producing 36,000 new units, of which 12,000 will be affordable across ten planning areas, set by Mayor Bowser through the 2019 Housing Equity Report. More information is available at: [housing.dc.gov](https://www.housing.dc.gov)

Furthermore, DHCD is excited to offer this rehabilitation opportunity with a focus on equitable inclusion and looks forward to working together with the development community to produce and preserve more affordable housing in the District of Columbia.

DEVELOPMENT SITE INFORMATION

Address	202 36 th St SE
Ward	7
Neighborhood	Benning
ANC	7F04
Square	5421
Lot	0022
Total Sq. Ft	1,840
Zone	R-3

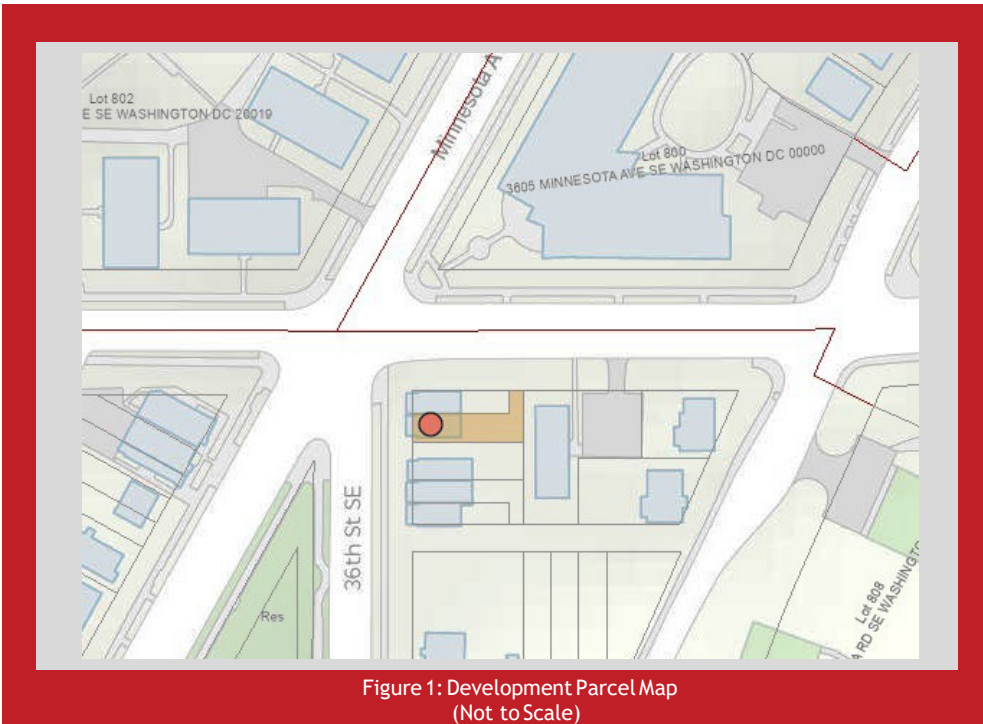
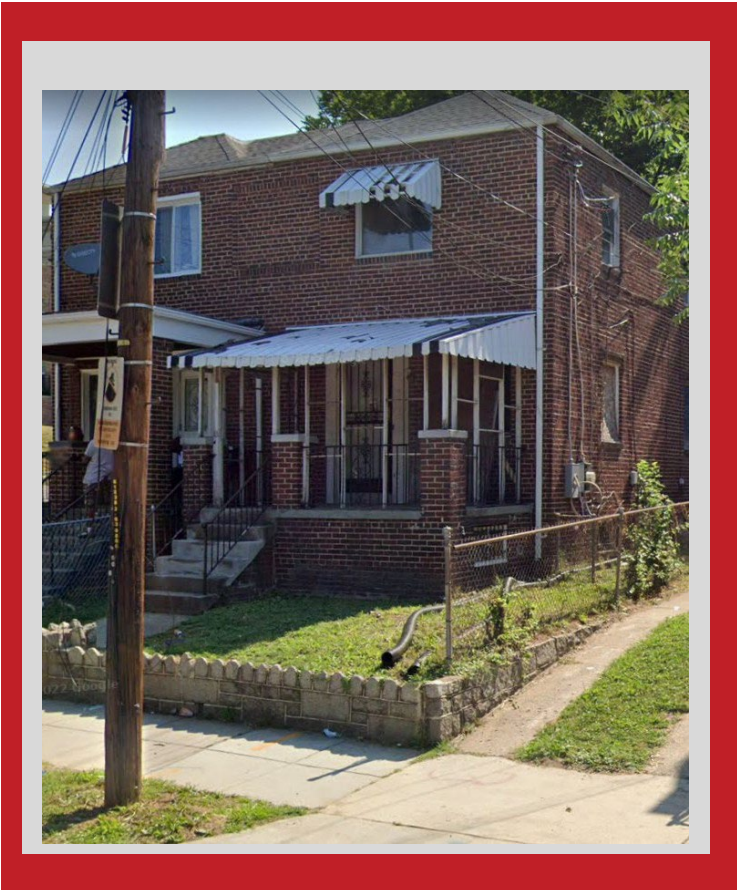


Figure 1: Development Parcel Map (Not to Scale)

NEIGHBORHOOD CHARACTERISTICS



The Development Parcel is approximately 1800 square feet in size and is currently a vacant brick home. There have been no site improvements. The property is within walking distance to the V2 bus line, which runs between the Minnesota Ave. (orange line) and Anacostia (green line) Metro Stations.

Nearby are Fort Dupont Park, and the Benjamin Stoddard Recreation Center, both offering family friendly programming for District residents. Minnesota Avenue is a local artery connecting this property to retail and other municipal. Other nearby attractions include Anacostia Park, Navy Yard, and Downtown DC, MD/VA via Suitland Parkway to I-295 & I-495 and National Harbor.

The Development Parcel is also in proximity to local grocery, banking, barber shops, libraries, and neighboring schools.

SITE CONDITION

As-Is Condition

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

ZONING

The zoning information listed herein is for informational purposes only. PADD makes no representation as to the accuracy of any zoning information. Respondents should review all applicable District zoning regulations while preparing their Proposals, including Title 11 of the District of Columbia Municipal Regulations (DCMR) for a complete list of zoning provisions and requirements.

The zoning regulations are available on the Office of Zoning (OZ) website (dcoz.dc.gov). Information on any proposed zoning changes is also on the OZ website or may also be obtained from the District's Office of Planning (planning.dc.gov). This website may also contain city and neighborhood revitalization plans relevant to this RFP. All proposals must be consistent with the appropriate plans. Respondents must demonstrate this consistency through their narrative and by using relevant land use maps.

Development Standards									
	Height (ft.) ¹ / Stories	Minimum Lot Width (ft.)	Area (sq. ft.)	Lot Occupancy	Front Setback	Read Yard (ft.)	Side Yard (ft.) ^{2, 3}	Pervious Surface (minimum)	Zoning Regulation Reference
R-3	40	40 (detached)	4,000 (detached)	60% (Row Dwellings & Places of Worship)	A front setback shall be provided within the range of existing front setbacks of all structures within an R-3 zone on the same side of the street in the block where the building is proposed.	20	8 (detached)	50%	Subtitle D, Chapter 4
		30 (semi-detached)	3,000 (semi-detached)						
		20 (row)	2,000 (row)						
	3	16 (IZ row)	1,600 (IZ row)	40% (all other structures)					
		40 (all other structures)	4,000 (all other structures)						

HISTORIC PRESERVATION

Development site may be subject to the District's Historic Landmark and Historic District Protection Act of 1978 (D.C. Law 2-144), as amended, and/or the National Historic Preservation Act of 1966, as amended. The District's historic preservation regulations, are available on the Historic Preservation Office/Office of Planning website (planning.dc.gov), including information on the required compliance with DCMR Title 10C for both historic preservation and archaeology. The development plan and budgets should note any associated cost items for historic preservation and archaeology review and assessment.

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Proposal Logistics

Site Tour

Respondents are encouraged to attend the pre-proposal site tour to conduct inspection activities on April 17, 2023, from 10:00 am until 12:00pm. Respondent shall hold the District harmless from and against any and all liabilities, actions, claims, suits, losses, judgments and damages caused by entry onto the Development Site.

Pre-Proposal Conference

A pre-proposal conference will be held for those who intend to respond to this RFP. The tentative schedule for the pre-proposal conference is April 17, 2023 at 2:00 pm. Attendance is strongly encouraged. In the event that any discussions or questions at the pre-proposal conference require official additions, deletions, or clarifications of this RFP, or any other document, PADD, in its sole discretion, will address such revisions in writing and make questions/responses available on the DHCD project website.

Respondents can RSVP for the site tour and pre-proposal conference by April 13, 2023 by emailing dhcd.padd@dc.gov with the name, organization, phone number, and email address of the attendee(s).

Proposal Submission

Proposals shall be submitted as follows:

- Respondents shall respond to each item included in this RFP in the order presented.
- Separate each section with marked tabs indicating the section number. Respondents should include site plans, tables, charts, and any other applicable documents, to the extent possible.
- At a minimum, Proposals for the Development Site should address all of the submission requirements stated in this RFP. Proposals submitted without addressing all such items may be deemed incomplete and therefore, maybe rejected without further consideration.

All material must be submitted by the "Submission Date" using the following email:

dhcd.padd@dc.gov

No RFP shall be accepted after 11:59 p.m. on the Submission Date.

There will be no exceptions to this policy.

Under No Obligation

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

Proposal Structure

The District shall determine, in its sole discretion, whether each Proposal received is responsive to the RFP and acceptable. The decision of the District in this regard is final and any determination on non-responsiveness shall be explained to the applicable Respondent(s) upon request.

Proposals that do not provide the information below or meet the following requirements may be deemed “Non-Responsive” and may not be considered for selection.

Proposal Contents

Section 1: Executive Summary

Respondents shall provide a summary to highlight the following key components: (1) articulate the vision for the Development Site; (2) address how the project will benefit the District and surrounding neighborhood (i.e., economic impact, job creation, etc.); (3) describe how the proposed project fits within the neighborhood fabric; (4) describe how the Proposal meets and incorporates the goals in the “Equitable Development Focus” section.

Section 2: Respondent Team

Respondent shall provide an introduction for and description of each member of its team, including but not limited to, lead developer, general contractor, design team partner, and any other team members Respondent identifies for consideration by the District.

For each entity identified above, Respondent shall provide the following information for the primary point-of-contact:

- First and last name
- Title
- Address
- Telephone Number
- Email Address

Section 3: Organizational Documents

Organization Status

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.

Respondent shall provide a copy of any written agreement or document creating any entity responding to this RFP. 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.

Organization Chart and Bios

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

Section 4: Qualifications and Experience

Respondent shall identify three to five relevant projects in which the respondent or its team members have had primary involvement, which demonstrate success in urban affordable residential or similar housing projects. Favorable consideration will be given to Proposals that delineate prior successful experience working with PADD or other DHCD programs/divisions. For each relevant project, the respondent shall identify the following:

- Project Name
- Development Team Name
- Project Location/Address
- Project Status
- Project Scope (new construction, rehab, commercial, residential, mixed use, etc.)
- Estimated total development cost at time of award or start of the project, actual total development cost, including all changes and exercised options and source of financing for the project.
- 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

Section 5: Development Plan

Respondent shall submit a development plan identifying and describing in detail the elements of its proposed development considering all applicable Federal and District laws and regulations. The development plan must meet or exceed the District goals and objections described throughout this RFP. Respondent shall include the following:

Project Concept

- A project narrative indicating the detailed scope of work, scale, and character of the project. The narrative should describe the proposed number of units, bedrooms, and bathrooms along with any additional improvements.
- Description of exterior design and parking, if applicable, including site re-grading or retaining wall work, tree removal, the addition of impervious surfaces such as driveways, and public space improvements.
- A visual representation of the proposed development and schematic plans that include basement plan, ground floor plan, typical floor plan and roof plan, elevations of front, side and rear views, as applicable. Such visual representation need not be elaborate or costly but should offer DHCD a clear picture of the proposed end result.
- A proposed project timeline/schedule of performance for the design, construction, and marketing periods.

Implementation Strategy

Respondent shall plan to guarantee the implementation of the development plan, demonstrating the ability to mobilize and commence development programming immediately upon selection.

Project Development Budget

To prove the economic viability of the construction and operation of the proposed project, Respondent shall provide a detailed, line-item, fully functional Microsoft Excel project development budget.

Pre-development Cost

All funds expended by the Respondent in responding to this RFP, and in performance of due diligence and pre-development work during negotiation with the District shall be at its sole cost and expense. Under no circumstance shall the District be responsible for the reimbursement of any such cost even if the parties do not execute an agreement or proceed to closing or if the project is not successfully completed.

Development Cost

Respondent shall be solely responsible for projecting all pre-development (including possible demolition of existing improvements, environment remediation costs, historic preservation reviews, and other site preparations) and project development costs to include design, construction, and post construction services to be included as part of the budget submission.

Section 6: First Source, Certified Business Enterprises and Local Hiring

First Source & Certified Business Enterprises

Please refer to the "Common Elements and Requirements" section for details regarding the First Source Agreement and the CBE Agreement that the selected Respondent shall enter into with the District prior to execution of a disposition agreement.

Local Hiring & Opportunities

Respondents are encouraged to incorporate in its Proposal the following:

- Employment and business opportunities for local residents and businesses. If included, Respondent shall submit detailed plans for apprenticeship programs that facilitate placing existing District of Columbia 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.
- Opportunities for District of Columbia neighborhood-based business to participate in the project. If included, Respondent shall submit evidence of the inclusion of such businesses in the form of written confirmation from such neighborhood-based businesses and shall include the scope and details of the said businesses' involvement in the project.

Evaluation Criteria

All projects proposals that contain detailed responses to each proposal category that is clear, concise, comprehensive, and complete will be competitively evaluated based on the following evaluation criteria, established in accordance with federal and District law and the District's housing priorities and needs.

Evaluation Criteria	Potential Weight
Capacity of the Development Team	30 points
Technical Expertise & Capability	15
Past Performance & Experience	15
Development Plan	70 points
Implementation Strategy	20
Construction Schedule	20
Project Budget	20
Design Characteristics	10

Capacity of the Development Team

Technical Expertise & Capability

This factor considers the education, experience, knowledge, specific skill sets, and expertise of the proposed project team and key personnel directly assigned to the Project. The Respondent will be evaluated on the proposed project team's qualifications and technical competence. The availability and experience of the key personnel and staff assigned to this project will be evaluated as part of this evaluation factor. If the Respondent is a team or a joint venture of multiple companies, the Evaluation Panel will consider the experience of each member of the team or joint venture and its relevance in its identified role in the proposed team or joint venture.

Past Performance & Experience

Evaluation of past performance allows the District to assess the Respondent's ability to perform the services with a high degree of overall customer satisfaction and the extent to which the Respondent has performed work of comparable complexity, function, and scope with timeliness in service delivery in the past five (5) years. The Respondent will be evaluated on how well the proposed project team's skill sets have been used to complete similar projects on time and on budget. For purposes of this paragraph, comparable shall mean: (i) design and construction projects involving scope, size, and budget similar to this project; (ii) Respondent's familiarity with local and federal regulatory agencies and processes and their requirements. The relevance of the information, source of information, context of the data and general trends in the Respondent's performance shall be considered.

Development Plan

This evaluation factor considers how the Respondent has demonstrated its understanding of the nature of the work related to the design development, construction services, and project management to successfully apply and commit to timely delivery.

Implementation Strategy

This evaluation factor considers the Respondent's overall approach, methodology in providing the construction and development services.

Construction Schedule

The Respondent will be evaluated on the proposed development plan that clearly demonstrates the completeness of the construction schedule, including all major tasks and subtasks, dependencies, critical path items, and a demonstration of how the Respondent will meet the schedule to complete the Project successfully.

Project Budget

This factor considers how the Respondent demonstrates maximizing funds in a design-build project. The Respondent must include information on both the design and construction cost of the project

Design Characteristics

The Respondent will be evaluated on the visual representation of the project's scope of work, character, site design and amenities that are appropriate for the end users.

Evaluation Preference

Equitable Development Focus

Mayor Bowser has charged her entire administration with ensuring every Washingtonian gets a fair shot. The Mayor recognizes that the District is a powerful tool for investing in the economic vitality of residents and neighborhoods. As the District of Columbia continues to grow and change, the District's investments and decisions will continue to play an important role in shaping the future of our city and providing opportunity to those who have historically been locked out of prosperity. Building the District of Columbia into a more inclusive and equitable city will not happen by chance, it will be the result of intentional decisions that are designed to overcome long-standing inequities, that reflect our shared DC values, and that provide Washingtonians across all eight wards every opportunity to rise.

In the interest of advancing access to opportunities to manage meaningful development activities, DHCD has designated this project as an instance to serve the dual purpose of promoting economic activity and facilitating equitable access to the opportunities afforded by development projects. Equitable access to meaningful opportunities for development, project management, and delivery is a critical pathway towards ensuring that the District's growth reflects diverse needs and equitably benefits residents.

The District intends to take deliberate steps to assist small, local, and disadvantaged businesses and people to, not just participate in larger opportunities but, build the capacity necessary to lead and manage those opportunities in the future.

Equitable Inclusion Priority

In the District's efforts to advance equitable access to opportunities to manage meaningful development activities ("Equitable Inclusion Priority"), DHCD will prioritize Proposals that maximize, by leadership and/or inclusion, individuals who are either:

- Black Americans.
- Hispanic Americans.
- Members of other groups for which a rebuttable presumption exists that the individuals are socially disadvantaged (13 C.F.R. §124.103(b)(1)); or
- Socially disadvantaged as established by a preponderance of the evidence (13 C.F.R. §124.103(c))

Further, DHCD will prioritize Proposals that maximize, by percentage of ownership and control, entities that are either:

Designated as Disadvantaged Business Enterprise ("DBE") and as Resident-owned Business ("ROB"); or Led by, or majority controlled by, individuals designated as socially disadvantaged under the Small Business Administration ("SBA") definition^[1] as more specifically identified above

Respondent must complete the Equitable Inclusion Priority Form attached as Appendix A, which shall be used to calculate Respondent's percentage of equity participation and reflect Respondent's total equity participation percentage.

^[1] 13 C.F.R. §124.103 - <https://www.ecfr.gov/cgi-bin/text-idx?SID=e1ec97fa9394bf2190b27e524d4d03a1&mc=true&node=se13.1.124.1103&rqn=div8>

Evaluation Process & Selection

Selection Panel

A selection recommendation panel ("Panel") will be established to review and evaluate the Proposal. If established, the composition of the Panel shall be determined by DHCD, in its sole discretion. PADD and/or the Panel may consult with professional consultants, advisors, and/or other stakeholders for technical assistance.

Proposal Review

PADD and/or the Panel shall evaluate each Proposal against the Evaluation Criteria outlined. For evaluation consistency, two to three DHCD staff will be assigned to review and score each criterion across all proposals. The selection panel may in its sole discretion request that one or more Respondents modify their Proposals, provide additional information, or provide a "best and final offer" for the selection panel's review.

Selection

Following the selection panel review, PADD will provide project selection recommendations based on the final rating and ranking of the Evaluation Criteria scores to the DHCD Director. Once the Director has approved the decision of the selection panel, PADD will notify the selected Respondent(s).

Any selected Respondent that elects to withdraw an accepted Proposal will be precluded from responding to and applying for any DHCD requests for proposals and/or RFPs for a period of one year. Such penalty period shall run one year from the date of withdrawal.

Selection Process & Timetable

PADD shall select the winning Proposal within thirty days (30) days of the submission deadline and notify the selected Respondent(s) by award letter. The selection process schedule is provided below. All proposals must be submitted to PADD by 11:59 pm, July 21, 2023.

Action	Development Site Award Timeline
Release Date	March 16, 2023
Site Tours	April 17, 2023
Pre-Proposal Conference	April 17, 2023
Submission Deadline	July 21, 2023

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

Any questions regarding this Proposal should be submitted in writing via e-mail to dhcd.padd@dc.gov or online. Responses to questions and other clarifications will be posted online.

Available Funding Sources

Respondents are encouraged to leverage private sources for their project. However, this is not required and through this RFP, DHCD offers the following types of funding, from the sources listed below:

Available To	Assistance Type	Source
All Eligible Projects	Development Subsidy	Housing Production Trust Fund (HPTF)
		HOME Investment Partnership Program (HOME)
		Community Development Block Grant (CDBG)

Each funding source operates under separate federal or local laws and regulations. All laws and regulations include restrictions on the incomes of families served, and maximum allowable rents, but such restrictions vary among the funding sources.

A brief summary for each funding source is outlined below. Projects must meet the specific income limits in effect at the time of funding and must subsequently adjust income and rent limits to maintain ongoing compliance with program laws and regulations as new limits are published.

All projects funded through this RFP will be required to execute a long-term affordability covenant recorded against the property's deed.

Minimum Affordability Terms by Funding Source	
Funding Source	Homeownership
HPTF	15 years
HOME	5-15 years
CDBG	Determined on a project-by-project basis

Development Subsidy

Through this RFP, each Respondent will be considered for available and eligible funding sources, but if there are conditions associated with any program that the applicant would be unwilling to accept, they should indicate that they do not wish to be considered for funding from the program.

Provided that the costs are attributable to a use eligible for DHCD funding, development financing may be used for purposes including, but not limited to:

- Soft costs
- Predevelopment costs
- Hard costs – new construction and rehabilitation

Financing from the available Development Subsidy sources may not be used for:

- capacity building;
- down payment assistance;
- security or utility deposits;

- capitalized reserves;
- operating and maintenance expenses;
- commissions;
- marketing.

Information specific to each funding source is provided below.

Development Financing

Housing Production Trust Fund (HPTF)

The HPTF is a local fund established under the authority of the Housing Production Trust Fund Act of 1988, D.C. Law 7-202 (the Act). Detailed information about the fund is available in the statute (D.C. Code § 42-2801 et seq.) and regulations (DCMR 10-B41).

Davis Bacon prevailing wage rates apply to any project that uses HPTF.

HOME Investment Partnerships Program (HOME)

Through HUD, HOME is the largest federal block grant to state and local governments designed exclusively to create affordable housing for low-and moderate- income households. HOME provides formula grants to states and localities that communities use in partnership with local non-profit groups to fund a wide range of activities that build, buy, and/or rehabilitate affordable housing for rent or homeownership. Detailed information on the HOME program can be found at: hud.gov. Go to "Resources/Handbooks-forms/HUD handbooks, etc./HUDCLIPS/Shortcuts/Code of Federal Regulations.;" HOME is Title 24, Part 92. DHCD's use of HOME funds is guided by the FY2022-FY2026 District of Columbia Consolidated Plan (<https://dhcd.dc.gov/node/1549461>).

Davis Bacon prevailing wage rates apply to any project that uses HOME.

Community Development Block Grant (CDBG)

CDBG are federal funds provided and regulated by HUD. Detailed information on CDBG can be found at hud.gov; go to "Resources/Handbooks-forms/HUD handbooks, etc./HUDCLIPS/Shortcuts/Code of Federal Regulations;" CDBG is Title 24, Part 570; Alternatively, call the Superintendent of Documents Office, Government Printing Office, 202-512-1800 to request regulations in hard copy. DHCD uses CDBG funds for a variety of uses, one of which is to produce and preserve affordable housing through this Consolidated RFP. DHCD's use of CDBG funds is guided by the FY2022-FY2026 District of Columbia Consolidated Plan (<https://dhcd.dc.gov/node/1549461>).

Davis Bacon prevailing wage rates apply to any project that uses CDBG.

Development Funding Guidelines

The following guidelines pertain to the proposals submitted to DHCD. DHCD will review projects using these standards.

Financing Terms and Conditions

DHCD's funding will be structured as a not-to-exceed loan amount repaid on a cash flow basis using the following loan terms:

- A loan term up to three years.
- The Deed of Trust for DHCD financing will be in first position.
- The outstanding balance of the loan is due at closing to a qualified homebuyer.
- Affordability covenants are not released if a DHCD loan is paid off ahead of schedule.

Development Budget

Total development costs include the following: (1) expenses related to the actual construction or rehabilitation of the project; (2) fees related to the construction or rehabilitation such as architecture, engineering and legal expenses; (3) financing fees and charges such as construction interest, taxes, and insurance. Total development costs do not include hard or soft cost contingencies or developers' fees.

Construction or Rehabilitation Costs

The construction or rehabilitation costs for projects must be within a reasonable range for the scope of work proposed. Construction or rehabilitation costs include all work, including site development, associated with the physical development of projects, together with the builder's overhead and profit, but not including architectural and engineering costs or other fees related to design and permitting. The project's per square foot costs are obtained by dividing the amount of the construction or rehabilitation contract by the gross square footage of the buildings to be constructed or renovated. The construction contingency should not be factored into this equation.

Contingencies

All projects should include contingency amounts for construction and "soft cost" line items. The expected construction contingency ranges are 12 percent - 15 percent for rehabilitation, with the higher contingency amounts for smaller or less experienced contractors and those with environmental or other construction uncertainties. The soft cost and financing contingency is expected to range from 5 percent - 8 percent of soft costs and financing costs.

Limitation on Fees

Fees in the development budget are limited according to the following standards established by DHCD

Architect, General Contractor, and Construction Management Fee Limits	
Category	Limitation
Builder's Profit	5% to 10% of the net construction cost
Builder's Overhead	2% to 3% of the net construction costs
General Conditions/Requirements	5% to 10% of the net construction costs
Architect Design & Administration	3% to 9% of the construction contract*
Construction Management	1% to 2% of the construction contract*

**excluding contingency*

Net Construction Costs

Net construction costs are equal to the construction contract amount less builder's profit, builder's overhead, general requirements and bond fees.

Builder's Profit

A builder's profit is permitted even if a relationship or identity of interest exists between the developer and general contractor. However, all general contractors must meet DHCD guidelines and be approved to act as a general contractor for the project. The allowable profit must range from 5 percent - 10 percent of the net construction costs.

Builder's Overhead

Allowable builder's overhead must range from 2 percent - 3 percent of the net construction costs with the lower percentage applicable to larger projects and the higher percentage to projects of lesser amounts.

General Conditions/Requirements

The allowable general requirements are determined based on the size of the project. General requirements must range from 5 percent - 10 percent of net construction costs.

Architect's Fees

The allowable architect's fee for project design ranges from 2 percent - 6 percent of the construction contract amount. For architectural administration, the allowable fee range is from 1 percent - 3 percent.

Construction Management Fee

The allowable construction management fee range is from 1 to 2 percent of the construction contract amount.

Fees for Development Consultants or Other Professional Services

Fees for Development Consultants or professional services other than those listed here (for example, financing consultants, green building consultants, etc.) must be priced competitively. DHCD will scrutinize proposed fees and compare to data from comparable projects in the proposal review.

Common Elements & Requirements

Respondent Responsibility to Applicable Laws

It is the Respondent's sole and absolute responsibility to ensure its Proposal complies with all applicable District laws.

All elements, requirements, and requests below are provided for guidance purposes only and are not intended to outline all District laws, regulations, and statutes that may be applicable to the Development Parcel, and development thereof, and must be followed. It is the Respondent's responsibility to determine which laws are applicable to the Development Site and Respondent's proposed development thereof and ensure its Proposal complies with all applicable laws.

First Source Hiring

Pursuant to Reform of the First Source Amendment Act of 2011 (D.C. Law 19-84, D.C. Official Code §2-219.01, et seq.), and the rules and regulations promulgated thereunder, Mayor's Order 83-265, one of the primary goals of the District is the creation of job opportunities for District of Columbia residents. Accordingly, Respondent's selected through this RFP shall, as applicable, enter into a First Source Employment Agreement ("First Source Agreement") with the Department of Employment Services ("DOES") that shall, among other things, require the Respondent to use diligent efforts to:

- Hire and use diligent efforts to require its architects, engineers, consultants, contractors, and subcontractors to hire at least 51 percent District of Columbia residents for all new jobs by the development project, all in accordance with such First Source Employment Agreement.
- Ensure that PADD's goal of at least 51 percent of apprentices and trainees employed are residents of the District of Columbia and are registered in apprenticeship programs approved by the DC Apprenticeship Council.

Certified Business Entity Requirements

The selected Respondent shall, if the District and selected Respondent shall successfully negotiate an agreement, comply with the requirements of the Small and Certified Business Enterprise Development and Assistance Act of 2005, D.C. Official Code §2-218.01, et seq. (as amended, the "CBE Act"), including entering into a CBE Agreement with the District prior to execution of a disposition agreement. Pursuant to D.C. Official Code §10-801(b)(6), the CBE Act. Respondent shall subcontract to Small Business Enterprises ("SBEs"). The District's Department of Small and Local Business Development ("DSLBD") determines which entities qualify as SBEs, Certified Business Enterprises ("CBEs"), Small Investors, Disadvantaged Investors, and Certified Equity Participants pursuant to the CBE Act.

Davis Bacon

To the extent applicable, the selected Respondent shall be required to develop the Development Site in compliance with the provisions of the Davis-Bacon Act, 40 U.S.C. §276(a), and the regulations promulgated therewith. It shall be Respondent's responsibility to determine if the Davis-Bacon Act is applicable to its project.

Reservation of Rights and Miscellaneous Provisions

Reservation of Rights

- The District reserves the right, in its sole and absolute discretion and as it may deem necessary, appropriate, and/or beneficial to the District with respect to the RFP, to:
- Cancel, withdraw, or modify the RFP prior to or after the response deadline for Proposals;
- Modify or issue clarifications to the RFP prior to the Submission Due Date for Proposals;
- Request submission of additional information from one, some, or all Respondents after review of one or more Proposals;
- Request Respondent modify its Proposal or provide a BAFO for the District's review;
- Enter into negotiations with one or more Respondent based on Proposals submitted in response to the RFP;
- Begin negotiations with a different Respondent in the event that a disposition agreement cannot be executed within the allotted period of time for negotiations with the prior selected Respondent;
- Make and memorialize modifications to any Proposal between the District and Respondent during the course of negotiations between the District and Respondent;
- Reject any Proposals it deems incomplete or unresponsive to the RFP requirements;
- Reject all Proposals that are submitted;
- Terminate negotiations with a Respondent if such Respondent introduces comments or changes to a disposition agreement or any other documents the District and Respondent negotiate that are inconsistent with its previously submitted Proposal materials; and
- Modify the deadline for Proposals or other actions and (a) reissue the original RFP, (b) issue a modified RFP, or (c) issue a new request for proposals, whether or not any Offers have been received in response to the initial RFP.

Conflicts of Interest

Disclosure

By responding to this RFP, Respondent is representing and warranting the following to the District:

- 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 Respondent or potential Respondent for the purpose of restricting competition related to this RFP or otherwise;
- No person or entity currently or formerly employed by the District or retained by the District in connection with this RFP: has provided any information to Respondent that was not also available to all Respondents; (b) is affiliated with or employed by Respondent or has any financial interest in Respondent; (c) has provided any assistance to Respondent in responding to the RFP; or (d) shall benefit financially if Respondent is selected in response to the RFP; and

- Respondent has 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 or contract, and Respondent has not taken any action to induce any District officer or employee to violate the rules of ethics governing the District and its employees. Respondent 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 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 Respondent; 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.

On-Going Reporting

Respondent 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 RFP 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 Respondent's employee, officer, agent, subcontractor, labor official, or other person for any purpose which may be related to the procurement of the RFP by Respondent or which may affect performance in response to the RFP in any way.

Miscellaneous Provisions

Notice of Modifications

DHCD shall post on its website (dhcd.dc.gov) any notices or information regarding cancellations, withdrawals, and modifications to this RFP (including modifications to the deadlines included herein). Respondent shall have an obligation to periodically check the Project Website for any such notices and information, and the District shall have no duty to provide direct notice to Respondent.

Change in Respondent's Information

If, after a Respondent has submitted a Proposal to the District, information provided in such Proposal changes (e.g., deletion or modification to any of Respondent's team members or new financial information), Respondent 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 Proposals, eliminate Respondent from further consideration, or take other action as the District may deem appropriate in its sole discretion. The District shall require similar notification and approval rights to any change in Respondent's Proposal or team following Selection.

Ownership and Use of Offers

All Proposals shall be the property of the District. The District may use any and all ideas and materials included in any Proposals, whether the Proposal is selected or rejected.

Restricted Communications

Upon release of this RFP and until Selection, Respondent shall not communicate with DHCD, its staff, or any other District staff about the RFP or matters related to the RFP, except as permitted under this RFP.

Selection Non-Binding

The Selection by the District of a Respondent indicates only the District's intent to negotiate with a Respondent, and the Selection does not constitute a commitment by the District to execute a final agreement or contract with Respondent. **Respondent, therefore, agrees and acknowledges that it is barred from claiming to have detrimentally relied on the District for any costs or liabilities incurred as a result of responding to this RFP.**

Confidentiality

Proposals and all other information and documents submitted in response to this RFP are subject to the District's Freedom of Information Act (D.C. Official Code §2-531, *et seq.*, (2008 Supp.)) ("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 Respondent provides information that it believes is exempt from mandatory disclosure under FOIA ("Exempt Information"), Respondent 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 Respondent believes is Exempt Information, Respondent 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, Respondent shall also specify the Exempt Information and shall state the exemption category within which it is believed the information falls.

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

Non-Liability

By participating in the RFP process, each Respondent 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 or the Development Site.

Other Limiting Conditions

Withdrawal & Cancellation

If, at any time after Selection, Respondent does not proceed with the project, then Respondent must notify the District in writing and provide reasons for its decision. The Respondent wishing to withdraw may be subject to the loss of part or all of any deposits previously provided to the District and may be responsible for certain costs previously waived by the District, in addition to any other remedies available to the District under the executed disposition agreement, if any, or bylaw.

Stand-Alone Project

Respondent is prohibited from cross collateralizing and cross defaulting the Development Site, or any portion thereof, with any other assets. Moreover, Respondent is prohibited from assigning, pledging, hypothecating, or otherwise transferring its interest in the net cash flows or ownership in the Development Site and project in part, or in whole, without prior District approval, which may be granted or withheld at the District's sole discretion. Any additional debt shall require prior written District approval, which may be granted or withheld at the District's sole discretion.

Disclosure of Fees

Respondent shall disclose all development management fees, general contracting fees, construction management fees, property management fees, and other fees that are paid to Respondent 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 a Respondent or terminating the project.

Disclosure of Submissions

Respondent shall provide the District with any and all financial and other submissions provided to prospective and actual lenders and equity providers related to the project.

Disclosure of Final Development Costs

Respondent shall provide the District with documentation evidencing the actual costs and fees incurred to develop the Development Site as a condition of receiving the certificate of final completion for the project from the District.

Restrictions

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:

- Respondent, and its members, agents, and employees, are prohibited from: (a) making offers of employment, (b) conducting any negotiations for employment, (c) employing, or (d) entering into contracts of any sort, with current employees, consultants, or contractors of the District who are personally and substantially involved in any aspect of this RFP;
- Respondent must disclose in its initial Proposal the names of any member, employee, or agent who were District employees, consultants, or contractors to the District within the three years prior to the publication of this RFP. On a continuing basis, Respondent shall 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 days of any such hire;
- This provision shall apply to Respondent during the conduct of this competition, and shall subsequently apply to the selected Respondent until such time as final completion of the development of the project; and
- Required disclosures and notices notwithstanding, failure to comply with any obligation described in this provision may result, in the District's sole and absolute discretion, in a Respondent's disqualification from consideration under this RFP, the rescission of a Respondent's Selection, and/or termination of any agreement between a Respondent and the District.