

# **REQUEST FOR PROPOSALS**

# **No. SU16-04**

**STUDENT HOUSING DEVELOPMENT PROJECT**

**AT SHEPHERD UNIVERSITY**

**Issued: October 14, 2015**

**Shepherdstown, WV**

**Submittals Due: November 24, 2015**

Shepherd University (“Shepherd,” the “University”) is soliciting proposals to enter into a unique public private partnership agreement to design, build, and potentially finance a new on-campus student residential facility on campus in Shepherdstown, WV, as further specified herein.

This Request for Proposals (“RFP”) contains statements, descriptions, and analyses of Shepherd and the project background information. Such statements, descriptions, and analyses are for informational purposes only. The University does not guarantee nor represent nor warrant the completeness or accuracy of such information, and any respondent to this RFP should complete its own due diligence with respect to such information.

If your team is interested in submitting a response to this RFP, please note that the response must be submitted no later than **4:00 p.m. EDT on November 24, 2015**.

Any questions concerning this RFP should be directed in writing to Debra Langford, Executive Director of Purchasing at [dlangfor@shepherd.edu](mailto:dlangfor@shepherd.edu).

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1. **INTRODUCTION**
   1. **Overview of the Opportunity**

The University is issuing this Request for Proposals (“RFP”) to solicit responses from interested parties (“Developer”) to enter into a public-private partnership with the University to develop a residential structure (“Project”) on Shepherd University’s campus. The University is seeking a Developer to design, build, and possibly finance (“DBF”) the Project in a manner consistent with the University’s objectives, which are described further within this RFP.

* 1. **Overview of the Project**
* To provide up to 300 suite-style beds on the West Campus along the Campus Walk pedestrian spine;
* To deliver the complete structure, ready for occupancy by students, by August 1, 2017;
* To provide students with affordable on-campus housing. A student’s room rates in the new structure should be comparable to other on-campus offerings, affordable for sophomore students and beyond, and the rates of single occupancy rooms must be competitive with the off-campus rental market;
* To increase the number of rooms designed for single-occupancy in the on-campus housing stock;
* To increase the percentage of suite-style units on campus;
* To increase the number of private and semi-private bathrooms within the unit;
* To increase the number of students who reside on-campus. In particular, to increase the number of exempt commuter students who choose to live in on-campus accommodations;
* To improve its recruitment of new students to campus;
* To improve its retention of students in on-campus housing;
* To move towards providing enough housing for 50% of the full-time undergraduate population, in line with their COPLAC peers;
* To support the implementation of the Campus Master Plan; and,
* To utilize the public-private partnership structure that result in an off-balance sheet treatment to the University’s financial statements and positively impact the University’s credit rating.

A summary of the Project is provided below. Details of the Project are described further within this RFP.

* + 1. The Project site is comprised of approximately 2 contiguous acres and is located on the west side of Shepherd’s campus next to the West Wood Commons residential community.
    2. The Project is required to be delivered in one phase with occupancy by the University on or before July 15, 2017 and available for occupancy by student residents August 1, 2017.
    3. The Project includes up to 300 suite-style beds with associated residential support spaces.
    4. Parking to include resident staff, maintenance, emergency, and handicapped spaces as part of the Project. Residents will park in existing campus parking lots.
    5. The Project will address the related infrastructure needs, including removal of hazardous materials from, and demolition of, tennis courts located on the development site.
  1. **Overview of Preferred Deal Structures**

At a minimum, Developer shall submit a response based on the Base Proposal including a detailed description of the deal structure for the Project. However, the University is interested in receiving all development structure proposals that Developers believe may be the best solution for this Project. Developers are encouraged to submit alternative responses to the Base Proposal. Alternative Scenarios A and B should be considered as optional submissions.

**BASE PROPOSAL**

The “Base Proposal” should focus on the Developer’s approach to building the new student housing consistent with the University’s objectives. The Base Proposal should assume a 501(c)(3) ownership structure and tax-exempt bond financing utilizing the United States Department of Agriculture’s financing program. The term of the ground lease and tax-exempt bonds should be no more than 40-years.

The Developer should assume that the Project would be managed by Shepherd University. The recommended housing rents for the Project are set forth in Appendix A. The University shall have the final say over housing rents and any escalation factor.

**Note: At the time of this RFP, the University has not determined whether it will utilize its affiliated 501c3 or an unaffiliated national 501c3. For the purpose of this RFP, the Developers should assume the Project owner to be a national 501c3.**

**ALTERNATIVE SCENARIO: A**

In addition to the Base Proposal, the Developer can propose on an ownership structure of its existing East Campus Residence Halls and will renovate and / or replace them on a proposed schedule. Developers should present financing, investment and development approaches for these Halls. The residence halls available under this Scenario is discussed in Appendix E. At a minimum, Shepherd desires upgrades to the utilities, air condition space, modernize interior finishes, upgrade technology, replace exterior windows and doors of these Halls.

Shepherd recognizes that replacing these units under a public-private partnership structure of some type would have some impact on the cash flow of Shepherd’s housing auxiliary. Shepherd will not proceed with these projects under a public-private partnership structure if doing so would reduce Shepherd’s debt coverage ratio substantially below what it would have been if Shepherd developed the same renovation / replacements and renovations on its own.

**ALTERNATIVE SCENARIO: B**

Under this scenario, Proposers may present financing, investment and development approaches not contemplated in the Base Proposal or the Alternative Scenario A.

**If proposing a deal structure involving the use of equity, Developers must indicate how flexible the percentage composition may be in the deal structure (i.e., equity must comprise no less than ‘\_\_%’). Please note that the University is not interested in receiving proposals with deal structures where equity comprises more than 50% of the Project funding.**

* 1. **Overview of the Selection Process**
     1. The University will evaluate all RFP responses that are submitted by November 24, 2015 and that are deemed to be compliant based on the submission requirements identified within this RFP. The University may, at its sole discretion, enter into negotiations with the most responsive and responsible Developers whose proposals are determined to be the most advantageous to the University taking into consideration price and other criteria as set forth in this RFP. The University reserves the right to negotiate with multiple Developers simultaneously in pursuit of the most favorable deal terms for the University.
     2. Developers should not contact any officials of Shepherd University, the Shepherd University Foundation, or its Development Advisor (Brailsford & Dunlavey) with regard to this opportunity, other than Debra Langford, Executive Director of Purchasing through the channels described within. Developers are advised that unauthorized contact with officials, related parties, or advisors of the University may result in elimination of a Developer from this RFP process.
     3. The University may, at its sole discretion, amend or modify the terms and provisions hereof and may abandon the procurement if determined to be in the best interest of the University. The University reserves the right to reject any or all proposals.
  2. **Overview of Engagements & Agreements**
     1. As defined in Section 1.3 of this RFP, the University intends to enter into a ground lease agreement with the 501(c)(3) with a term of not more than 40 years.
     2. The University encourages the Developer to explore all available financial structures that it deems feasible for the Project. However, the proposed structures should align with the University’s objectives for the Project.
     3. The University will manage the operations, maintenance, and residence life of the Project.
  3. **Overview of Submission Requirements**

Developers must provide complete submissions to be considered compliant for this Project. Submission details are provided in Section 14 of this RFP, but Developers should ensure that the following information is provided in the RFP responses.

* Acknowledgement of receipt of materials (specific form provided by University)
* Roles / Responsibilities of Key Personnel from Developer Team
* Financial Capacity and Performance
* Project program (specific form provided by University)
* Graphic Documentation / Rendering Proposal
* Project Budget
* Project Schedule
* Propose Deal Structures
* Propose Sources of Funds
* Project Pro Forma
* Optional Additional Information
* Any additional pertinent information to be determined by the Developers

1. **PROJECT TEAM**
   1. **Shepherd University**

Shepherd University is a public, four-year, liberal-arts institution offering a residential college experience in historic Shepherdstown, West Virginia. It offers baccalaureate degrees in a range of fields, encompassing the liberal arts, business administration, teacher education, nursing, the social and natural sciences, and other career-oriented areas. It also offers for-credit courses for non-degree seeking students and serves as a center for noncredit continuing education for the northern Shenandoah Valley Region. In addition to its main campus in Shepherdstown, the University operates a graduate student center in Martinsburg, West Virginia. The University’s mission is to serve as a regional center for academic, cultural, and economic opportunity.

Shepherd University’s main campus is situated on the banks of the Potomac River in historic Shepherdstown, West Virginia, the oldest town in the state. The 323-acre campus is divided into East and West Campus and is unified by the newly constructed Underpass. The East Campus includes three residence halls, Ram Stadium, the student center, the library, the main student dining options, and the majority of the academic buildings. The West Campus includes most of the residential halls, student athletic and recreation resources, the visual and performing arts buildings, and extensive parking. One of the goals of the Shepherd University Campus Master Plan is to better connect the East and West campuses by increasing residential density on West Campus along West Campus Drive.

Shepherd University enrolled 3,906 students in fall 2015, 2,928 of whom were full-time undergraduates. Shepherd University currently has a maximum capacity 1,301 beds of student housing in fourteen (14) on-campus residential buildings These communities provide a blended mix of beds in traditional (55%), suite-style (22%), and apartment-style (23%) units, but almost exclusively double-occupancy bedrooms (97%). The average on-campus residential community is 41 years old, with construction dates ranging from 1914 to 2006.

In fall 2015, Shepherd housed 1,059 students on campus, 36% of its full-time undergraduate population. The University’s system-wide housing occupancy has fallen from its peak at 94.6% in fall 2011 to 81.4% in fall 2015. This decline closely mirrors the decline in full-time undergraduate enrollment. However, the three traditional communities, Kenamond, Gardiner, and Turner (collectively the “East Campus Halls”), are not air conditioned. These residence halls have an average occupancy of 76.8%, compared to the modernized residence halls on the West Campus that have an average occupancy of 84.1%.

The University has a comprehensive residency requirement which applies to all under-21, full-time, unmarried students whose permanent residence is outside Berkeley or Jefferson counties in WV or Frederick or Washington counties in MD. Currently, 60% of full-time undergraduates reside in one of these four counties. The University ultimately seeks to house 50% of its full-time undergraduate population, in keeping with its COPLAC peers.

* 1. **Ground Lease between the University & 501(c)(3)**

Shepherd University will select a Developer to implement the Project for summer 2017 delivery. The University and selected Developer will enter into a Development Agreement. Assuming the Base Proposal deal structure, the University will enter into a Ground Lease Agreement (“Ground Lease”) with a 501(c)(3).

* 1. **Project Management Committee**

The Project will be steered by a Project Committee of the University (Committee), consisting of seven (7) members appointed by the University. The Committee will be responsible for making recommendations to the University President regarding all contracts, designs, and other issues relating to the Project.

* 1. **Development Advisors**

The Committee has engaged the collaborative services of Brailsford & Dunlavey, Inc. (“B&D”) to serve as the Development Advisor (“Development Advisor”) for the Project. The Development Advisor will help the University engage and monitor the development partnership.

1. **STUDENT HOUSING PROGRAM & REQUIREMENTS**

The University has defined the key programmatic elements that must be considered when programming the residential facilities in the Project. The intent of providing these programmatic elements is to inform Developers of the University’s requirements for the Project and concurrently to provide parameters that should be utilized to inform preliminary development costs that will be submitted in response to this RFP.

The program includes up to 300 suite-style beds. This section of the RFP describes the housing programs as well as the nature, character, and adjacencies of specific spaces within the program for Suite Housing.

* 1. **Suite Housing**

The Project will introduce a new modern housing facility on campus aimed to attract and retain on-campus residents. The market study, completed by Brailsford and Dunlavey (“B&D”) in 2015, identified demand for approximately 275 to 300 beds. Demand was comprised of 85 beds of net new beds and 190 to 215 beds from the repurposing / demolition of Turner Hall and the de-densification (i.e. offering more single rooms) in Dunlop and Printz Apartments and the West Woods buildings. Turner Hall is a traditional-style hall on East Campus that lacks air conditioning and has long-term structural inadequacies. De-densifying the Apartments and West Woods buildings will provide for graduated levels of privacy as students matriculate through the University.

* + 1. **Suite Program**

|  |
| --- |
| **Preliminary Program from B&D Market Study: 294 Suite-style Beds** |
| * 60 Beds in Two-bedroom / One-bathroom Units (one resident / room) |
| * 224 Beds in Two-bedroom / Two-bathroom Units (two residents / room) |
| * 8 Resident Assistant Rooms in One-bedroom / One-bathroom Unit Configuration |
| * 1 Resident Director Apartments in Two-bedroom / Two-bathroom Unit Configuration |

* + 1. **Suite Housing Building Requirements & Adjacencies**

The community spaces within the Suite Housing are expected to include the following key components to be provided by the Developer:

* A secure lobby with inviting lounge areas that create a sense of arrival and identity within the building;
* ADA unisex bathrooms in first floor common area spaces;
* ADA compliant rooms on each floor in a quantity according to ADA regulations;
* One (1) 24-hour desk location;
  + Desk will face the entrance of the building and serve as both a welcome desk and service desk for keys and information.
  + Desk must accommodate two (2) staff members at front counter space.
* A single, central office area for Residential Life operations and programming staff close to the desk;
  + It is expected that at least 2 office spaces within the central office will be for Housing & Residential Life staff members
* Card access readers on all exterior and interior doors that are compatible with the existing University card systems including ADA door openers;
  + Blackboard’s exterior door Access card system will be hard wired with battery backup and appropriate connection to generators to ensure access and tracking during power outages
  + Onity’s battery operated interior door access hardware will be installed on all interior doors
* Fully furnished common areas within the Project, which will be designed in collaboration with the University;
* Walls designed to attenuate sound between living areas and non-residential areas (recommended 55 rating);
* Multiple multi-purpose spaces within each building. These co-curricular spaces are expected to be used for classes and programming;
* Retail dining area, study, lounge and mail room spaces;
* 75 wireless Internet access points throughout the Project with adequate load for multiple devices, including outdoor space. Data drops and cable TV connections are expected to be provided in all offices and shared / public spaces;
* Interior and exterior recycling containers at suitable locations;
* Trash disposal in a convenient location for student and staff use designed in a way that does not detract from landscape architecture. Selected location for trash disposal should consider pick-up logistics and minimizing noise disturbance for living units;
* An area for custodian, maintenance, and equipment storage;
  + To support the custodial operations a supervisor office, restrooms, and break room with sink, refrigerator and microwave will be provided for each housing community to the University / Residential Life standards. Total number and location of storage areas to serve the Project will be determined by the Developer in consultation with the University.
* Cameras at building entrance points, elevators, service desks, and within public areas;
* Secure interior bicycle storage consistent with University standards;
* Exterior benches, trash cans, and recycling containers consistent with University standards;
* Energy efficient exterior lighting throughout the Project that matches current exterior LED lighting fixtures used in residence Hall complexes and In parking areas and is controlled by University’s EMS with a manual override or otherwise expressly approved by University;
* Energy efficient interior lighting throughout the project that is expressly approved by the University.
* Design of emergency vehicle access / security access must meet University standards;
* Design of vehicular access points to ease flow of residential move-in and move-out processes to allow for six vehicles at a time;
* Developer to provide clear signage both on building exteriors, as well as wayfinding throughout Project, in accordance with University standards;
* All elevators in Project must be sized to at least fit medical stretcher and personnel to respond in an emergency. Elevators will be sized and configured to support heavy residential and not be a hindrance during move-in move-out peaks and provide for ease of maintenance.
* Laundry facility with energy efficient washers and dryers, vented to outside (10 washers and 12 dryers);
* Parking to include staff, maintenance, emergency, and handicapped spaces as part of the Project. Residents will park in existing student parking;
* Appropriately sized and conditioned data closets on each floor.
  + 1. **Suite Unit Requirements & Adjacencies**

The suite-style housing units must include the following key components:

* At a minimum, each bathroom serving suite-style units (including Resident Assistant units) will include the following facilities:
  + One (1) toilet, lockable door
  + One (1) shower, lockable door
  + One (1) sink
  + Fixtures to be low flow for water reduction. High profile toilets preferred.
  + Bathrooms will contain low flow toilets, shower, mirrored vanity with electrical plugs, storage
* Bathrooms to be exhausted to the exterior of the building.
* All residential units within the Project will be fully furnished (beds, desks, chairs, closets, etc.).
* Each suite-style unit will have:
  + One (1) bed (twin-sized bed) per resident
  + One (1) desk per bed
  + One (1) chair per desk
  + Two (2) wire drops per bed and one (1) cable TV outlet per bed
  + One (1) set of four drawers per bed
  + One (1) closet per bed or wardrobe (compliant with fire sprinkler requirements)
  + Energy efficient windows and lighting that is expressly approved by University.
  + Vandal proof screens will be installed on any operable window reachable from the ground level.
  + Each window will include window blinds
  + Location and number of electrical outlets will be consistent with University standards and sufficient to handle typical residential student load.
* One (1) one-bedroom / one-bathroom suite-style unit will be provided to support one (1) Resident Assistant per 35 students. Location of RA space within building design to be proposed by Developer but subject to University approval.
* Resident Assistant suite-style unit will include the following:
  + One (1) twin bed
  + One (1) desk per bed
  + One (1) chair per desk
  + Two (2) data drops and one (1) cable TV outlet
  + One (1) set of drawers
  + One (1) closet
  + One (1) bathroom
  + Soft seating area that supports meeting space for RAs to meet with one or two residents
  + Energy efficient windows and lighting that is expressly approved by University
  + Each window will include window blinds. Vandal proof screens will be installed on any operable window reachable from the ground level or breezeway.
  + Location and number of electrical outlets will be consistent with University standards and sufficient to handle typical residential student load
  + Signage on exterior of room door indicating staff space
* Two (2) two-bedroom / two-bathroom apartment unit will be provided to support one (1) Resident Director. Location of RD space within building design to be proposed by Developer with University and University approval.
* Resident Director apartment units will include the following:
  + Two (2) full-size bed
  + One (1) desk per bed
  + One (1) chair per desk
  + Two (2) data drops per bed and one (1) cable TV outlet per bed
  + One (1) set of drawers per bed
  + One (1) closet per bed
  + One(1) bathroom
  + One (1) full kitchen for each unit (stove, dishwasher, sink, garbage disposal, refrigerator, storage, microwave, and range hood exhausted to the exterior);
  + In-unit laundry with an energy efficient washer and dryer, vented to outside;
  + Living room / common room wired with two (2) drops for streaming/IP phone and one (1) cable TV outlet;
  + Soft seating area that supports meeting space for RAs to meet with residents
  + Energy efficient windows and lighting that is expressly approved by University
  + Each window will include window blinds. Vandal proof screens will be installed on any operable window reachable from the ground level.
  + Location and number of electrical outlets will be consistent with University standards and sufficient to handle typical residential student load
  + Signage on exterior of room door indicating staff space
  + Exterior entrances
* Bedroom and bathroom doors for all unit types must be lockable.
* Peepholes to be provided at entry doors for each unit.
* Wireless, high speed computer connections with a minimum of 2.4GHz and an option for 5MHz providing sufficient broad band width for heavy download a by the occupants of the building.
* Each residential unit, office space, and multi-purpose space will be accessible through University’s Interior door access hardware system, Onity.
  1. **Additional Housing Considerations**
     1. The precise program and distribution of residential units will be determined by the University and the Developer through the design process and reconciliation with the Project’s financial pro forma, but must meet the proscribed minimums in this RFP.

1. **RETAIL PROGRAM & REQUIREMENTS**
   1. **Retail Tenants & Leasing**
      1. The University expects the selected Developer to include a small retail dining option that aims to primarily serve the Project’s residents but to a limited degree the Shepherd campus community. The Project should support up to 1,500 gross square feet of retail, including, but not limited to:

* A convenience store;
* Small food service dining concept;
* Outdoor seating area consistent with University standards; and
* Shepherd’s food service will be the tenant of this space.
  1. **Retail Design**
     1. Retail dining must include the following key components:
* Warm shell including:
  + HVAC system;
  + Drop Ceilings;
  + Plumbing;
  + Restrooms – ADA compliant, unisex, family friendly;
  + Interior lighting; and
  + All other utility and IT connectivity.
* Exterior space including:
  + Exterior benches, trash cans, and recycle containers consistent with University standards;
  + Interior and exterior lighting throughout the Project that is consistent with University standards;
  + Security cameras to University specifications;
  + Exterior seating options with appropriate lighting; and
  + Ability to utilize seating area as gathering / study space upon closing for business.

1. **PARKING PROGRAM & REQUIREMENTS**

Through the delivery of the Project, the Developer is expected to provide the specified parking.

* 1. Parking to include staff, maintenance, emergency, and handicapped spaces as part of the Project. Residents will park in existing campus parking lots. The Developer must include sufficient parking to support retail tenant and meet code and permit requirements.

1. **EXISTING SITE CONDITIONS & INFRASTRUCTURE**
   1. **Project Location Definition**

The Project site is approximately 2 acres situated on the west campus, including existing Tennis Courts. The site is bounded by Campus Hill Drive to the west, West Campus Drive to the south, the Center for Contemporary Arts building to the east, and the West Woods Commons residential community to the north. The site is owned by the State of West Virginia and will be the subject of a ground lease.

* 1. **Site Inventory Portfolio**

The Developer will be responsible for all site preparation, including, but not limited to, abatement, demolition, coordination, and utility delivery for the Project. The University, along with its consultant team of Pennoni and Triad Engineering, has created a Site Inventory Portfolio to help the Developers understand existing site conditions. The Site Inventory Portfolio Appendix B will be made available shortly after the issuance of this RFP.

* 1. **Demolition & Abatement**

There is currently one structure on the site (Tennis Courts) that will be removed by the Developer as part of this Project. There are other existing features remaining on the site. The Developer will be responsible for managing and addressing the existing site conditions as part of this Project. In addition, it is the University’s desire to maintain as much green space as possible to preserve the natural esthetics of campus. The Developer will have absolute liability for preservation of all existing utilities services without interruption, other than scheduled change-overs.

* 1. **Utilities & Infrastructure**

The Developer will be responsible for delivering the capacity for all utilities required to adequately service the Project.

1. **DESIGN OBJECTIVES**

The expectation is that this Project will demonstrate the design tenets adopted by the Association of College and University Housing Officers – International (ACUHO-I) 21st Century Project focused on sustainability, flexibility, community, and technology. In keeping with optimal community design and institutional criteria from ACUHO-I 21st Century Project standards, the buildings will likely be a low- or mid-rise development with ample green space and pedestrian connections.

The Project will be expected to be designed in accordance with Shepherd’s design standards. Shepherd’s design standards have been packaged into a Design Standard Portfolio, which is included in Appendix C and can be downloaded at the following link: [www.shepherd.edu/procurement-current-bids](http://www.shepherd.edu/procurement-current-bids)

Shepherd’s design standards are intended to be recommended guidelines for development. Provided that the University’s design and financial objectives are satisfied, the Developers will have some flexibility towards the design of the Project. The selected Developers should recognize that the Project’s design will follow an Owner Review process outlined in Section 8.2 below.

1. **REVIEW PROCESS & KEY MILESTONES**
   1. **Key Schedule Milestone Dates**

In order to achieve an opening date for the fall 2017 Semester, the University created a list of critical milestone dates for Developers to consider.

* May 2016: Release of Building Plan Review and Approval for Construction
* June 2016: Commencement of Vertical Construction
* July 15, 2017: Substantial Completion
* August 1, 2017: Student Move-in
  1. **Owner Review**

The University will perform a detailed review (“Owner Review”) of proposed buildings and site design for this Project. The Owner Review will include submissions for compliance with applicable portions of Shepherds design standards and other criteria identified in Appendix C of this RFP. The Owner Review will include, but is not limited to, items such as the following:

* Site
* Architectural Design
* Interiors
* Mechanical
* Electrical/Telecom
* Environmental Health and Safety
* Utility Infrastructure
* Sustainability

Below is a list of the phases that will require an Owner Review. Please note that the Developer may not proceed to subsequent phase without written approval from the University of the prior phase.

* Program Completion
* Schematic Design
* Design Development
* Construction Documents 50%
* Construction Documents 90%
* Construction Documents 100%
* Final “released-for-construction” review to ensure 100% CD comments are satisfactorily addressed in final construction-issue documents

Written review comments will be returned to the Developer for each review effort. The selected Developer and the University will create and agree to a schedule of submission due dates and designated review periods based upon Developer’s proposed schedule and the University’s schedule requirements.

1. **HOUSING MAINTENANCE AND OPERATIONS OVERVIEW**

It is imperative that the Project residents receive a consistent and seamless on-campus living experience regardless of the housing facility at Shepherd. To deliver this consistent brand, it is critical that the level of residence life, operations, and maintenance is “high quality” for the Project. In order to deliver a unified student experience for all on-campus residents, regardless of where a student resides, the University desires to maintain responsibility for all management services. However, depending on the proposed deal structure, the University is willing to allow Developers to submit proposal options indicating if they would prefer to manage the operations (excludes residence life) and maintenance portions of the Project.

If services are to be delivered by the University, cost assumptions to be included in the Developer’s pro- forma submission is provided in Appendix D. Appendix D can be downloaded at the following link: [www.shepherd.edu/procurement-current-bids](http://www.shepherd.edu/procurement-current-bids)

If services are to be delivered by the Developer or third-party operator, the University will work with the Developer to develop an agreement (Management Agreement) to clearly delineate the responsibilities within and around the Project.

1. **OPERATING COSTS OF NON-HOUSING PROJECT COMPONENTS**
   1. **Retail Operating Costs**

It is the University’s goal that the retail dining space be provided to the University by the Developer as part of the deal structure and that the University will not pay a separate rent for the retail dining space. This space will be leased by the University, where it will maintain and operate the space through its dining services program.

* 1. **Parking Operating Costs**

Although the Developers are expected to carry costs for the development of some parking for the Project, all billings, revenue collection, operations, and maintenance for parking will be managed by the University. Developers should assume that neither revenue nor expenses associated with parking will be realized as part of the Project. Asset management and capital reinvestment as to parking spaces, following completion of construction, will be the responsibility of the University.

1. **ANTICIPATED AGREEMENTS**
   1. **Management Agreement**

The University anticipates entering into a management agreement (Management Agreement) with the 501(c)(3) to accommodate the services outlined in Section 9 of this RFP. It is also anticipated that the Management Agreement will establish an advisory committee that includes members of both the University and 501(c)(3) and that is responsible for preparing annual budgets including rate setting.

* 1. **Development Agreement**

The Developer will be required to enter into a Development Agreement that establishes various agreed-upon zoning, building and operating controls and standards, as well as timetables for development, construction, lease-up and stabilization of the Development. The Developer and the University will cooperate in the design and development of the Project; however, the Developer will have the sole responsibility for ensuring timely completion of the construction phases of the Development (including obtaining all requisite approvals, permits and certificates of occupancy) including deadlines for critical milestones, substantial completion dates and certificate of occupancy. In the event the Developer fails to meet any of the agreed upon deadlines, the Developer will, in addition to any other consequences (financial or otherwise) that result from such failure, at Developer’s sole cost and expense, reimburse the University for the costs incurred by the University in providing, operating and maintaining alternative accommodation to the planned and delayed Project accommodation and, at its sole cost and expense, move students from such alternate accommodation into the Project accommodation as and when units become available for occupancy. Such amounts shall be paid by the Developer directly to the University.

The Developer will have the sole responsibility for preparing a mutually acceptable construction budget and development pro-formas, construction and development schedules, procuring consultants and contractors and managing the development and construction process as well as the ongoing management and operations budget of the Development.

* 1. **Ground Lease**

Under the Base Proposal outlined in Section 1.3 of this RFP, the University expects to enter into a Ground Lease with a 501(c)(3) with a term of not more than 40 years, and preferably a shorter term.

Although other forms of long-term conveyance of development rights will be considered, the University anticipates entering into a long-term unsubordinated ground lease (“Ground Lease”) with the 501(c)(3) on customary terms. The Developer will have the responsibility for obtaining all debt and/or equity necessary for the development, design, construction, and operation of the Development. All conveyances and other financing must be subordinated to the University’s interest as landlord under the Ground Lease. Title to the Project land will at all times remain in the name of the University, the State or one of its affiliates.

Rent under the Ground Lease shall be paid to Shepherd University with all taxes, operating expenses and other expenses related to the Development to be paid for by the 501(c)(3). The 501(c)(3) also will be responsible for any recordation and transfer taxes imposed or assessed upon the Ground Lease. Upon the expiration or early termination of the Ground Lease, all right, title and interest to or in improvements located on the Site will automatically revert to Shepherd University or its affiliate.

* + 1. **Insurance**

The Developer will be responsible for providing insurance, in the event of any damage or destruction, the proceeds of such insurance must be used for maintenance and repair of the damaged facility.

* + 1. **Assignment and Transfer**

There will be no right to assign or transfer the Ground Lease without the written approval of the University.

* + 1. **Liens**

The Ground Lease will contain terms requiring the 501(c)(3) to obtain consent from the University to any pledge or mortgage of its leasehold interest under any Ground Lease as security, or otherwise allowing liens to be placed upon the leasehold estate, for financing or any other purpose relating to this Project or any other project.

* + 1. **Right of Approval to Certain Changes**

The Ground Lease will contain provisions regarding the requirement of University review and approval for any changes that occur to the exterior landscaping and façade of any of the facilities during the term of the Ground Lease.

* + 1. **Buy-Out by University**

The Ground Lease will contain provisions providing the University with a right, at its sole option, to buy out the remainder of the Ground Lease term. The buy-out provision will be based upon a calculation to be determined through negotiation with the selected Developer and 501(c)(3) determined to be finalists.

* + 1. **Delivery of Premises at End of Term**

At the conclusion of the term of the Ground Lease, any improvements located on the sites will remain and shall be delivered to the University fully operational and in good condition as determined jointly by the University and the 501(c)(3).

* + 1. **Other Covenants**

The Ground Lease will contain additional covenants requiring periodic financial reports to be submitted by the 501(c)(3) to ensure that the 501(c)(3) maintains financial strength throughout the term of the Ground Lease. Additional covenants may contain limitations on use, signage, and other items designed to ensure conformity with the campus environment.

* + 1. **Termination**

The University will have, as a remedy for default under the Ground Lease, the right to terminate and take possession and occupancy of any improvements. The University will consider providing for step-in rights for lenders. The default conditions will be defined during negotiations. It should be noted, however, that the Ground Lease will terminate in the case of a default, which is to be defined in the Ground Lease.

* + 1. **Form of Ground Lease Payment**

Proposals should include lease payments in the form of an annual minimum guaranteed rent, which must provide for periodic escalations. In addition to the minimum rent, the University encourages additional rental payments, for example, in the form of a percentage of gross revenues.

The University expects fair market value of the land to be achieved from the present value of proposed rents including annual lease payments, escalations, and any additional proposed participation rents to provide the University with a share of the financial project upside. In addition, the University will require the selected Developer to provide an upfront payment of $250,000 to reimburse the University for pre-development costs, including professional fees and expenses.

1. **FINANCIAL AND CREDIT IMPACT OBJECTIVES**
   1. **Shepherd’s Bond Obligations**

Shepherd’s auxiliary services currently has about $57,348,013 million including interest in outstanding bond debt. Shepherd will not enter into any transaction relating to this Project that would violate its existing bond covenants or jeopardize Shepherd’s ability to meet its payment obligations under those bonds.

As part of its review process for any Ground Lease, or other lease or operating agreement recommended by the University as part of this Project, Shepherd will obtain an opinion from a nationally recognized bond counsel regarding the proposed financial terms and lease and operating structure(s), and will only proceed if the opinion is that the proposed agreements are consistent with Shepherd’s then-existing bond obligations. Shepherd’s existing bond covenants can be found in Appendix J and can be downloaded at the following link: [www.shepherd.edu/procurement-current-bids](http://www.shepherd.edu/procurement-current-bids)

Based on financial analyses of the potential deal terms, deal structure, and financial consequences for the Project itself, Shepherd expects the Project to result in additional revenue to the University with no corresponding increase in balance sheet expenses or liabilities relative to its housing operations.

* 1. **Property Taxes**

The University does not have any information on whether or not the Project will be subject to real estate taxes or other taxes at this time, as taxes will likely be subject to deal terms and conditions. It is anticipated that taxes will be discussed with the selected Developers during negotiation. For the purpose of pro forma development, please include local property tax rates for taxable solutions (equity or equity/debt hybrid) and do not include property taxes for tax-exempt solutions.

1. **RFP PROCEDURE & RESPONSE REQUIREMENTS**
   1. **Overview of the RFP Process**
      1. The purpose of this RFP is to provide the University with detailed, consistent proposals in order to facilitate a fair evaluation of each proposal by the University. The University’s evaluation of each proposal will be based upon the information provided in the responses to this RFP, additional information requested by the University, information obtained from independent sources, and formal presentations if requested. The University will select the Developer that best meets the University’s strategic, programmatic, and financial objectives, as determined solely by the University.
      2. Following selection of one or more preferred Developers, the University reserves the right to modify Project requirements set forth in the RFP as deemed in the best interest of the University.
      3. The University makes no representations of any kind that an award will be made as a result of this RFP. The University reserves the right to accept or reject any or all proposals, waive any formalities or minor technical inconsistencies, to request clarification of proposal data and/or delete any item/requirements from this RFP when deemed to be in University’s best interest.
   2. **RFP Schedule**

|  |  |
| --- | --- |
| **RFP PROJECTED SCHEDULE** | **DATE** |
| RFP Document Issued to Developers | Wednesday, October 14th |
| Optional University Presentation to Developers Erma Ora Byrd Hall Nursing Building Auditorium  at 1:30 p.m. | Friday, October 23rd |
| Addendum responses to Questions Due | Monday, November 2nd |
| Additional Addenda Offered | On and/or before Nov. 9th |
| RFP Proposals Due | Tuesday, November 24th |
| Campus Presentations by Shortlisted Firms | Monday, December 7th |
| Preferred Developers Selected / Begin Negotiations | Week of December 14th |

University may amend the schedule by extending benchmark dates at its sole discretion.

* 1. **Optional University Presentation to Developers / Campus Tour**

The intent of the meeting is to provide clarity for all parties to ensure that questions are answered and expectations are met for both the University and the Developers. During the meeting, the University will provide a general description of the Project and an overview of the selection process, but the Developers are expected to come prepared with questions. This meeting is scheduled for October 23, 2015 and will be held in the Erma Ora Byrd Hall Nursing Building Auditorium at 1:30 p.m.

**Inquiries**

Any questions concerning this RFP should be directed in writing to Debra Langford-Hiergeist, Executive Director of Purchasing at [dlangfor@shepherd.edu](mailto:dlangfor@shepherd.edu).

Developers should not contact any officials of the University, Department of Residential Life, or Development Advisor of the University with regard to this opportunity, other than the individual as previously stated. Developers are advised that unauthorized contacts with officials may result in elimination of a Developers from this RFP process.

* 1. **Addenda**

Any addenda or instructions issued by the University during the RFP response period shall become a part of this RFP. Such addenda shall be acknowledged in the Developer’s proposal. No instructions or changes shall be binding unless documented by a proper and duly issued addendum. The University is under no obligation to contact proposers for clarification but reserves the right to do so.

It is solely the Developer’s responsibility to monitor the solicitation website at [www.shepherd.edu/procurement-current-bids](http://www.shepherd.edu/procurement-current-bids), at all times prior to forty-eight (48) hours before the closing time of this solicitation process to verify that the Developers have received any addenda that may have been issued.

* 1. **Selection of Finalists**

The University will evaluate proposals submitted by each Developer to determine which proposals create the greatest overall value for the University, taking into consideration price, qualifications, and other criteria as set forth in the RFP. Developers may be required to answer questions and may be required to make a presentation to the University regarding their qualifications, experience, service, proposal, and capability to furnish the required services. The University may also call references provided by the Developers.

Based upon its evaluation of the RFP responses, the University will select one or multiple finalists to enter into negotiations. The University anticipates that more than one (1) Developer will be selected for negotiations.

The University will not consider any response to the RFP that does not completely fulfill these requirements. The University reserves the right to accept or reject any or all submissions.

* 1. **Negotiation**

Developers may be invited to continue in the negotiation process. Negotiations could include, but are not limited to, price, scope of services, and the terms and conditions of this RFP. Negotiations offer an opportunity for the selected Developers to discuss their offers and proposals in further detail with the University. Selected Developers may be given the opportunity to refresh their initial offers. Refreshed proposals allow Developers to match or exceed the offers made by competitors, both as to services and cost. This process allows the University to secure services which best meet its needs.

At the conclusion of this negotiation process, the University may ask selected Developers to submit a written best and final offer, to memorialize all agreements reached during negotiations, and to extend additional benefits to the University, if desired.

Invitation to submit a best and final offer is not automatic. While the University reserves the right to request additional information or clarification from Developers at any time in the process, Developers should not assume that they will be allowed to expand upon, or modify, their initial written proposal.

The University will not enter into negotiations on a Ground Lease, Development Agreement and/or other legal documents with a Developer until a full negotiation has been completed. The finalist shall fully and timely cooperate with the University’s representatives and/or advisors during the negotiation.

If for any reason a Developer and the University cannot arrive at a mutual agreement, the University reserves the right to terminate negotiations, to reject the proposal, and to continue negotiations with other responsive Developers that may lead to the issuance and award of an agreement.

1. **PROPOSAL REQUIREMENTS**

The following details constitute the submittal requirements. RFP responses must follow the order provided below in order to facilitate efficient evaluation of the responses. Additionally, RFP responses should provide tabs correlating to each of the following criteria numbers below. It is critical that responses to the RFP are consistent in order to ensure accuracy in the University’s review process. Failure to submit proposals in the requested order will result in the submission team’s disqualification from the selection process.

Your proposal must respond to each criterion in the following order:

* Cover Page
* Cover Letter
* Table of Contents
* Tab 1: Acknowledgements
* Tab 2: Roles / Responsibilities of Key Personnel from Developer Team
* Tab 3: Financial Capacity and Performance
* Tab 4: Project Program
* Tab 5: Graphic Documents / Renderings
* Tab 6: Project Budget
* Tab 7: Project Schedule
* Tab 8: Proposed Deal Structures
* Tab 9: Source of Funds
* Tab 10: Project Pro Forma, including projected financials that are based on the specifications of Project contained in this RFP
* Tab 11: Optional Additional Information
* Tab 12: Optional Additional Submittal

A description of the Tabs are included below in further detail.

* 1. **Tab 1 – Acknowledgements**

Developers are required to submit a signature page that acknowledges the receipt, review, and understanding of all materials provided in this RFP, including information included in appendices and addenda.

With this signature page, it will be assumed that the Developers are fully aware of all information that may impact design, program, and financial assumptions included in the RFP submission. Failure to provide this signature page may result in non-compliance with the submission materials, thus impacting the University’s ability to review the proposal. The signature page that must be included in the Developer’s response is provided in Appendix F and can be downloaded at the following link: [www.shepherd.edu/procurement-current-bids](http://www.shepherd.edu/procurement-current-bids)

* 1. **Tab 2 – Roles / Responsibilities of Key Personnel from Developer Team**

The Developer should identify all other persons and entities than the Developer intends to use to provide specific elements of the project. These should include:

* The architectural firm or firms who will be providing design services for the project;
* Civil, structural and MEP engineers;
* The general contractors who will provide construction services for the project;
* Any entities that will provide management for any part of the project;
* Any financial entities who will provide financing for the project;
* Any law firms who will provide legal services for the Developer;
* Entities that will provide operations and maintenance (if applicable); and
* Any partners or other entities who will provide funding or other services to the Developer or who will gain any ownership or beneficial interest in the project or revenue from the project.

The entities identified will be considered to participate with the Developer as Subcontractors. Any additions to or changes to the Subcontractors in connection with a Proposal are subject to review and approval by the University. If a Developer does not name other entities, then that Developer’s proposal will be evaluated assuming that the Developer will self-perform all functions and any later decision to include other entities in any of these roles will require review and approval of these entities prior to their use by the Developer.

* 1. **Tab 3 – Financial Capacity and Performance**

The following information and guidelines apply to the Developer and any other entity that will undertake the financing or significant, construction, operation, or maintenance of the Development. These requirements do not apply to the engineering, planning, and design companies that may act as consultants for the Developer. The Developer and such new entities (or their parent companies, third party guarantors, principals, or stockholders) should provide:

* Audited financial statements for the last three fiscal years and information reflecting its current financial position.
* Evidence of the ability to obtain the performance and completion bonds for the full value of construction of the project.
* Include a detailed, narrative statement explaining how it has available the appropriate financial, material, equipment, facility, and personal resources and expertise, or firm commitments to obtain them, necessary to meet all contractual requirements outlined herein.
* Certification of no material adverse changes in its financial position since the end of its most recent fiscal year that would affect the Developer’s ability to meet any of the terms of this RFP.
* A Statement indicating whether there are any claims or other issues with local, state or federal taxing authorities.
* Contact information for banking and other financial references that can substantiate the Developer’s capacity to implement the project being proposed.
* A list of project lenders and equity sources that are likely to be partners for this project based on firm relationships and previous experience with similar built project.
* A description of all existing material liabilities and contingent liabilities, disputes, claims, litigation, judgments, bankruptcies, notices of violations, or administrative enforcement actions.
* Provide examples of three (3) similarly developed projects. Provide information on the developments including the number of housing units; key amenities; primary partners; maintenance responsibilities, transaction structure, year of opening, current project profitability (debt coverage ratio), occupancy rates, etc.
* Provide references for the three (3) projects
* A certification that no Team Member or its principals are barred from performing public work in any jurisdiction.
  1. **Tab 4 – Project Program**

Developers are required to fill out the program assumptions page provided in Appendix D. If there are assumptions provided by the University that do not align with the preliminary program (i.e., exact bed counts), please revise accordingly.

* 1. **Tab 5 – Graphic Documents / Renderings**

Developers shall illustrate their preliminary design concepts for all aspects of the Project and the sites in a graphic manner as part of the RFP response. The maximum drawings required by the RFP shall be:

* A schematic site plan for the Project indicating proposed street level functions and the relationship between program components and parking;
* Typical residential floor plan for the undergraduate residential facilities;
* Typical unit plans for each configuration; and
* Primary elevations illustrating the major components of the Project.

Developers shall clarify their preliminary design concepts with narratives as part of the RFP response. Narratives may also identify specifications offered by the Developers that are beyond the design guidelines described herein. The minimum narratives required by the RFP shall be:

* A narrative describing broad architectural concepts that govern the proposal for the site layout and building design for all Project components. The narrative should also describe details of the design that may not be readily apparent from drawings and may include comments on material and finish quality.
* A narrative describing the structural methodology that the Developer would employ for the Project.
* A narrative describing the mechanical systems (HVAC, plumbing) and the electrical system that the Developer would employ for the Project.

Please note the following for your design preparation:

* Drawings shall be 11” x 17”
* No animated fly-through will be expected for the on-campus presentations
  1. **Tab 6 – Project Budget**
* Project Development Budget
  + The Developer shall submit a budget for all pre-development and development costs associated with the Project, which will be the Development Budget. It is expected that, at a minimum, the Development Budget will include costs for the following and be allocated among the Project:
    - University reimbursement
    - Demolition
    - Site preparation
    - Parking
    - Hard construction costs
    - FF&E
    - Technology equipment
    - Construction materials testing/inspections
    - Accounting, consulting and legal fees
    - Developer’s and builder’s risk insurance
    - Permitting fees
    - Developer Fees
    - A/E Fees
    - General Contractor Fees
    - 501c3 Fees
    - Project contingency
    - Financing costs (underwriter’s takedown, issuance fees, capitalized interest, debt service reserves, etc.)
    - Other(s)
  1. **Tab 7 – Project Schedule**

Developers should discuss how their team will advance the Project’s requirements and add distinctive value to the University. Specifically, please address the following:

* Steps you would take to ensure timely completion of the Project
* Include a schedule for the design and construction of the Project
  + The schedule should demonstrate the Developer’s ability to ensure that the Project is move-in ready not later than the date indicated within the RFP.
* Please provide a narrative that describes the proposed Project approach. The narrative should include any anticipated risks in meeting the targeted schedule.
* In the event of a force majeure event or other delay of the completion of the Project beyond the completion dates, please describe how you would mitigate impacts to the University, including a detailed alternative housing plan for students
  1. **Tab 8 – Proposed Deal Structures**

At a minimum, Developer shall submit a response based on the Base Proposal including a detailed description of the deal structure for the Project. However, the University is interested in receiving all development structure proposals that Developers believe may be the best solution for this Project. Developers are encouraged to submit alternative responses to the Base Proposal. Alternative Scenarios A and B should be considered as optional submissions.

**BASE PROPOSAL**

The “Base Proposal” should focus on the Developer’s approach to building the new student housing consistent with the University’s objectives. The Base Proposal should assume a 501(c)(3) ownership structure and tax-exempt bond financing utilizing the United States Department of Agriculture’s financing program. The term of the ground lease and tax-exempt bonds should be no more than 40-years.

The Developer should assume that the Project would be managed by Shepherd University. The recommended housing rents for the Project are set forth in Appendix A. The University shall have the final say over housing rents and any escalation factor.

**Note: At the time of this RFP, the University has not determined whether it will utilize its affiliated 501c3 or an unaffiliated national 501c3. For the purpose of this RFP, the Developers should assume the Project owner to be a national 501c3.**

**ALTERNATIVE SCENARIO: A**

In addition to the Base Proposal, the Developer can propose on an ownership structure of its existing East Campus Residence Halls and will renovate and / or replace them on a proposed schedule. Developers should present financing, investment and development approaches for these Halls. The residence halls available under this Scenario is discussed in Appendix E. At a minimum, Shepherd desires upgrades to the utilities, air condition space, modernize interior finishes, upgrade technology, replace exterior windows and doors of these Halls.

Shepherd recognizes that replacing these units under a public-private partnership structure of some type would have some impact on the cash flow of Shepherd’s housing auxiliary. Shepherd will not proceed with these projects under a public-private partnership structure if doing so would reduce Shepherd’s debt coverage ratio substantially below what it would have been if Shepherd developed the same renovation / replacements and renovations on its own.

**ALTERNATIVE SCENARIO: B**

Under this scenario, Proposers may present financing, investment and development approaches not contemplated in the Base Proposal or the Alternative Scenario A.

**If proposing a deal structure involving the use of equity, Developers must indicate how flexible the percentage composition may be in the deal structure (i.e., equity must comprise no less than ‘\_\_%’). Please note that the University is not interested in receiving proposals with deal structures where equity comprises more than 50% of the Project funding.**

* 1. **Tab 9 – Source of Funds**

Developers must clearly identify the source of funding for all deal structures proposed in response to this RFP. Specifically, address funding sources for the following:

* Tax-Exempt Bonding
* Senior Debt
* Subordinate Debt (if applicable)
* Equity (if applicable)
* Other (if applicable)

In your description of the funding sources, please clearly and explicitly confirm that you as the contracting Developer have authority to negotiate on behalf of your funding source.

* 1. **Tab 10 – Project Pro Forma**

Developers must provide detailed pro-formas for each of their proposed deal structures for the University’s review. Pro-formas must include the following information:

* Project Pro Forma for Full Term of Ground Lease
  + All revenue and expenses, including operating and maintenance expenses and net operating income
  + Annual cash flow after debt and / or equity obligations
  + Disclosure of growth assumptions
  + Ground Lease term and lease payments
  + Design and construction costs, financing and scheduling assumptions and all other identifiable project costs
  + Property taxes (if believed to be applicable given the financial delivery structure)
  + Replacement reserves
  + Proposed room-type mix and anticipated rental rates (based on a 9-month academic year term)
  + Additional revenue beyond rental revenue during the 9-month academic year term
  + All developer compensation
  + Disclose cost of capital assumption for Project funding – full term of Ground Lease
* Project Compensation to Developer
  + Developer fee
  + Contingencies
  + Revenue sharing
  + Others
* Project Compensation to University
  + Ground Lease Base Rent
  + Percent of Gross Revenues
  1. **Tab 11 – Optional Additional Information**

At the Developer’s option, please provide any information that is deemed to be essential to the evaluation, for which no provision is made in the RFP. Please limit your response to two (2) pages for this section of the RFP response.

* 1. **Quantity of Submittals**

Submit one (1) original proposal with no holes punched in it and seven (7) bound hard-copies. The hard copy should be single-sided and submitted on 8.5” x 11” sized paper to make reproduction feasible as needed by the University. Pro-formas should be appended to your response. No supplemental information will be allowed, other than the allowance provided in Section 14.9 of this RFP.

The original hard copy should contain an original signature of an officer of the Developer with authority to commit the firm(s), and should be marked “Original” on front cover. As noted above, submittal contents should be presented in the same order as the requirements listed in the RFP.

Copies of your proposal should be delivered to the representative at the address shown below no later than 4:00PM EDT, on November 24, 2015.

* 1. **Submittal Instructions**

RFP submittals should be addressed and delivered to the individuals shown below no later than 4:00PM EDT on November 24, 2015.

One (1) Original / Seven (7) Bound Copies

Debra Langford-Hiergeist

Executive Director of Purchasing

[dlangfor@shepherd.edu](mailto:dlangfor@shepherd.edu)

If express mail delivery:

Shepherd University Procurement Services

217 Ikenberry Hall

308 N. Princess Street

Shepherdstown, WV 25443

304-876-526

If mail or hand delivery:

Shepherd University Procurement Services

217 Ikenberry Hall

301 N King Street

Shepherdstown, WV 25443

304-876-5216

One (1) Bound Copy / One (1) Electronic

Samuel Jung

Project Manager

[sjung@programmanagers.com](mailto:sjung@programmanagers.com)

Brailsford & Dunlavey

1140 Connecticut Ave NW Suite 400

Washington, DC 20036

1. **DISCLAIMER**

Any representations or statements made within this RFP shall not be considered a contractual obligation by the University and the Developers shall not be entitled to rely upon them. The University reserves the right to reject any and all submittals and to identify and select the Developer which the University, in its sole and absolute discretion, deems most qualified.

The Developer shall be solely and totally responsible for all costs associated with responding to this RFP, and the University accepts no responsibility with regard thereto. Submissions will become the property of the University.

The University reserves all rights available to it by law in administering this RFP, including without limitation, the right, in its sole discretion, to:

* Reject any or all submittals at any time;
* Terminate evaluation of any or all submittals at any time;
* Suspend, discontinue and/or terminate negotiations with any Developers at any time prior to the actual authorized execution of Development Agreement;
* Negotiate with a Developer without being bound by any provision in its submittal;
* Accept and review a nonconforming submittal;
* Request or obtain clarifications, revisions or additional information from any source;
* Issue addenda to and/or cancel this RFP;
* Issue a new request for proposals;
* Decline to financially participate in a proposed Project;
* Extend any deadline or time and waive or permit the correction of minor deficiencies or irregularities in a submittal and minor or technical violations of this RFP;
* Change the scope and the range of services from what is defined in this RFP at any time; and
* Select any submitted development structure.

This RFP does not commit any of the University to enter into a contract. In no event shall any of the University be bound by, or liable for, any obligations with respect to a Project until such time (if at all) as a Development Agreement, in form and substance satisfactory to the University, has been executed and properly authorized, and then only to the extent set forth therein.

Under no circumstances shall any of the University be liable for, or reimburse, the costs incurred by Developer, whether or not selected for negotiations, in developing submittals or in negotiating agreements.

Each Developer, by submitting qualifications, thereby accepts all risk of adverse public notice, damages, financial loss, criticism or embarrassment that may result from any disclosure or publication of any material or information required or requested by any of the University in connection with the submission of qualifications. In submitting qualifications, the Developer expressly waives, on behalf of itself, its partners, joint venture members, officers, employees and agents, any claim against any of the University, and their respective officers and employees, for any damages that may arise therefrom.

Any and all information any of the University makes available to Developers shall be as a convenience to the Developer and without representation or warranty of any kind.

The University acquires the rights to use any design ideas or other intellectual property submitted in any proposal and the University acquires the right to reuse any designs and plans without paying the Developer or its architect.

It is understood and the Developer hereby agrees that it shall be solely responsible for all services that it proposes, notwithstanding the detail presented in the RFP.

Developers must check their proposals for any errors. Failure to do so will be at the Developer’s risk. In the event a mistake results in the written request of a Developer withdrawing any part of the proposal, the Developer must withdraw the entire proposal package and the University may not consider that proposal for award of ANY of the subject RFP. This applies to all requests for withdrawal. The only exception to this policy would be a case where the mistake was the result of misinformation unknowingly supplied by the University. In this event, a waiver of policy must be approved by the University, whose decision shall be final.