

November 2011

Empire State Development
Request for Proposals

**REQUEST FOR REDEVELOPMENT PROPOSALS
FOR THE PROPERTY LOCATED AT
601-619 THROOP AVENUE
BROOKLYN, NEW YORK**

Issued by:
Empire State Development
633 3rd Avenue
New York, New York 10017

Contact:
Rob Kwon
Assistant Vice President
Empire State Development
ThroopRFP@empire.state.ny.us

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I. INTRODUCTION

The New York State Urban Development Corporation, d/b/a Empire State Development ("ESD") is seeking purchase and development proposals (the "Proposal" or "Response") for the property located at 601-619 Throop Avenue, Brooklyn, New York (the "Property" or the "Premises"). ESD's primary redevelopment goal for the Property is for a high quality, commercial-use project, which incorporates neighborhood-oriented focus.

II. RFP PROCESS

The Property will be sold "as is, where is" and conveyed by quit claim deed. ESD will consider all Proposals that comply with the instructions herein, but ESD shall be under no obligation to accept any Proposals.

All inquiries regarding the Property or the Request for Proposal ("RFP") process must be in writing and addressed only to Rob Kwon, AVP, Empire State Development, 633 3rd Avenue, 35th Floor, New York, NY 10017. They can also be emailed to ThroopRFP@empire.state.ny.us. All questions and requests for clarification will be disseminated to all persons and organizations having expressed an interest in this RFP, by posting on ESD's webpage under "Q&A", accessible at <http://esd.ny.gov/CorporateInformation/RFPs.html>.

Project staff will hold a pre-proposal meeting and site tour with interested parties on **Wednesday, November 30, 2011 at 2:00 P.M. at the Property** to discuss this request for proposals and answer questions.

All written Proposals must be submitted to Empire State Development, 633 3rd Avenue, 35th Floor, New York, NY 10017, Attn: Rob Kwon, by no later than **1:00 P.M. Friday, December 16, 2011**.

The Proposals will be evaluated as described in Section VIII. ESD will use reasonable efforts to notify all interested parties that have submitted a Proposal ("Responders") regarding the status of their Responses on or before **Friday, January 5, 2012**.

III. THE PROPERTY

The Property is located on the east block-front of Throop Avenue, between Decatur and MacDonough Streets in the Stuyvesant Heights section of the Borough of Brooklyn, Kings County, City and State of New York.

The Property is irregular in shape and has 200 feet of frontage on east side of Throop Avenue, 40 feet of frontage on the south side of McDonough Street, and 45 feet of frontage on the north side of Decatur Street, containing 9,300 square feet of lot area (according to New York City records). The Property consists of two interconnected buildings. The northern portion of the site is a five-story and basement, elevator, office building and the southern portion of the site is a two-story and basement, office building. The building was built in 1910 and has an aggregate gross building area of approximately 33,288 square feet (as per New York City records).

The Property is located in a R6B zoning district. The Property was constructed prior to the enactment of the current zoning regulations and represents a pre-existing, legal and non-conforming use. ESD believes that no additional development rights are available under current zoning.

The subject property is located within the Stuyvesant Heights Historic District, which was designated by the Landmarks Preservation Commission on September 14, 1971.

The current occupants and uses in the Premises include the Offices of Councilman Al Vann on part of the first floor, Downstate Medical Office, also on the first floor, vacant and gutted second floor, Vanguard Urban Improvement Association, Inc., on the third floor, vacant fourth floor, and Family Dynamics Community organization on the fifth floor. The second and fourth floors have been vacant for over ten years and current rents range from \$14 to \$19 per square foot.

On October 20, 2011, ESD acquired title to the Property through a foreclosure sale, which was initiated by ESD as mortgagee. Accordingly, the previous leases have been terminated and occupants are now considered month-to-month tenancies.

IV. REDEVELOPMENT GOALS

ESD's primary goal for the Property is a high quality, commercial-use project with a neighborhood-oriented focus. The proposals should include specific plans to revitalize the Property and make efficient use of the two vacant floors in a way that it maximizes job creation. The Proposal should also explain how the developer will work with current occupants and what the plans will be for the leases going forward. The foremost theme in the Proposal must be how the proposed plan would benefit the community and bring new jobs onto the Premises.

V. MINIMUM PURCHASE PRICE & FINANCING

The minimum purchase price for the Property (the "Purchase Price") must be \$3.35 million. ESD may consider financing the Purchase Price in whole or in part.

VI. TERMS AND CONDITIONS

This RFP does not constitute a solicitation or an offer for the purchase of the Property or any portions thereof, nor a solicitation or offer to sell the Property or any portions thereof. Neither ESD, the State of New York (the "State"), any of the State's agencies, departments, public authorities or other entities, nor any affiliate or subsidiary or any of the foregoing, shall incur any obligation or liability on account of this RFP or any submission made in connection with this RFP or any other reason unless and until a Purchase and Sale Agreement for the Property setting forth all the terms and conditions of a transaction has been fully executed and unconditionally delivered by all the parties thereto and all necessary consents and approvals for ESD's entry into such agreement have been obtained including, without limiting the foregoing, approval by the ESD Directors. The Purchase and Sale Agreement will be posted on the ESD website referenced above.

No Proposal for the Property shall be deemed accepted until closing on the Property has occurred under the Purchase and Sale Agreement.

This RFP, at any time, may be reissued, amended, supplemented and withdrawn in ESD's sole and absolute discretion. ESD will attempt to notify, by first class mail or email, all Responders of any reissue, amendment, supplement or notice of withdrawal with respect to this RFP.

ESD reserves the right, in its sole discretion, not to select or accept one or more Proposals submitted for the Property in connection with this RFP, including, without limiting the foregoing, the highest Purchase Price for the Property. ESD has no obligation, under this RFP or otherwise, to dispose of the Property, or any portion of the Property, through a competitive offering process, including, without limiting the foregoing, to dispose of the Property to the Responder with the highest Purchase Price. ESD may at any time withdraw the Property, or any portion of the Property, included in this RFP. ESD has the right in its sole and absolute discretion to reject any and all Proposals, to accept any Proposals, and to elect not to proceed with the process set forth in this RFP. ESD may, at any time, dispose of the Property, or any portion of any Property, in any appropriate manner.

ESD has no obligation to disclose its reasons for selecting, accepting or rejecting any Proposals with any Responders or any other person.

PROCESS TIMETABLE

The following dates are intended as a guide for the RFP process:

- | | |
|-------------------|--------------------------------------|
| November 30, 2011 | Pre-proposal meeting and tour. |
| December 16, 2011 | All Proposals due. |
| January 5, 2012 | Selection of Responders (Projected). |

Dates are subject to change.

TAXES

Due to ESD's ownership of the Property, it is currently exempt from local property taxes. The tax-exempt status of the Property will cease upon its

disposition to a taxable entity. No Proposals shall be conditioned upon the receipt of tax abatements.

SUBMISSION OF PROPOSALS

Only Proposals that comply with all provisions, requirements, terms and conditions of within this RFP will be considered for review by ESD.

ESD reserves the right to independently investigate or request clarification of the contents of any Responses, including requiring any Responders to provide additional information or to make an oral presentation. All materials submitted in response to this RFP become ESD's property without any obligation of ESD to return such materials. All determinations of completeness of any submission and its compliance with the provisions, requirements, terms and conditions of this RFP and the eligibility or qualification of any Responder shall be in the sole and absolute discretion of ESD. ESD may waive any of the provisions, requirements, terms and conditions of this RFP.

Subsequent to submission of Proposals in response to this RFP, ESD, in the exercise of its sole and absolute discretion, may enter into parallel negotiations with two or more Responders, may designate two or more Responders for "short list" consideration, may request best and final offers, and/or may conduct other additional competitive proceedings with respect to the potential disposition covered by this RFP.

CONDITION OF PROPERTY

The Property will be sold on an "as is, where is" basis. No representation or warranty as to the condition of the Property will be made by ESD, including without limitation the structural or other condition of the Property or any part thereof, its fitness for use, its compliance with any applicable law, rule or regulation, environmental condition(s) in, about or under the Property. All Responders must conduct their own due diligence investigation of the Property as they see fit, without reliance on any statement, representation or warranty by ESD or any person acting or reasonably appearing to act on ESD's behalf, including without limitation any person appearing to act as an agent with ostensible authority. No such persons have authority to bind ESD in any way.

Without limiting the foregoing, ESD has in its possession a Phase I Environmental report on the Property prepared in or about April, 2008. That report will be made available for inspection by interested Responders, and a copy may be provided on payment of copying expenses. Nothing contained in the Phase I report shall constitute a warranty or representation by its author or by ESD as to the condition of the Property or any other property discussed in the report, which is not current, was obtained for limited purposes, and in no way limits the responsibility of all Responders to undertake their own investigation and inspection of the Property as set forth above.

INSPECTIONS

Prospective Responders wishing to inspect the Property may arrange site visits through the designated ESD contact person named herein. ESD shall not be responsible or liable for any damages or injury to Responders or their employees, agents, contractors and representatives arising out of or resulting from any visit to the Property, whether or not scheduled in accordance with RFP process. Prior to visiting the Property, the Responders shall execute and deliver to ESD a Hold Harmless Agreement in the form of Exhibit B annexed to these Instructions (without omission, addition, amendment, modification or supplement).

CONVEYANCE

Conveyance of the Property shall be made by quit claim deed.

PERMITS AND APPROVALS

Responders should consult with local zoning and land use authorities regarding permitted uses and development of the Property. The purchased Property will be subject to applicable local zoning and land use laws, regulations, ordinances and procedures.

CONTINGENCIES

All Proposals must be submitted in accordance with the provisions, requirements, terms and conditions of this RFP. Proposals which are contingent (except for ESD's financing of the Purchase Price) will not be considered.

EXPENSES

ESD shall not be liable for any costs or expenses (including, without limitation, the costs and expenses of legal counsel, environmental and structural consultants) incurred by any Responder in responding to this RFP, in connection with the Property or under any other circumstances, including, without limitation, whether or not a particular Proposal was accepted, rejected or otherwise designated or selected or if ESD elects not to proceed with the disposition process. All costs and expenses incurred by each Responder in connection with this RFP or the Property will be borne by the Responder, including, without limitation, all costs and expenses in connection with: surveys, reports, studies, research and other due diligence work; preparation of each Proposal; advice and representation of legal counsel; responding to this RFP; and the purchase, or the contemplated or proposed purchase of the Property.

BROKERS

Proposals shall be accepted from principals only. No brokerage fees, finder's fees, commissions or other compensation will be payable by ESD in connection with the selection of a Responder or the disposition of the Property. Submission of a Proposal by a Responder in response to this RFP constitutes an undertaking by the Responder to hold harmless and indemnify and defend ESD from and against any and all expenses, damages or liability (including, without limitation, attorneys' fees and disbursements) arising out of any claim for such fees, commissions or other compensation made in connection with such Responder's response to this RFP, selection or non-selection thereunder or execution (or non-execution) of a Purchase and Sale Agreement.

VII. PROPOSAL REQUIREMENTS

NUMBER OF COPIES

Four (4) bound originals of the Proposal for the Property, together with one CD or DVD disk containing the Proposal in accessible form (pdf preferred) must be received by ESD by 1:00 P.M. Eastern Standard Time, December 16, 2011 at Empire State Development, 633 3rd Avenue, 35th Floor, New York, NY 10017, Attn: Rob Kwon.

ORGANIZATION OF THE PROPOSAL

The Proposal for the Property should be organized as follows:

Amount of the Purchase Price:

The Proposal must set out the proposed minimum Purchase Price for the Property of Three Million Three Hundred Fifty Thousand Dollars (\$3,350,000).

Project Timeline:

The Proposal must provide specific project timeline as to when and what is estimated to be achieved. For example, ESD needs to know the timing of how and when the 2nd and 4th floors of the Property will be redeveloped and who the tenants are expected to be.

Responding Team:

To enable the ESD to assess a Responder's qualifications and financial capability, the Responder must complete and submit with its Proposal the Information Regarding Qualifications and Financial Capability form included in Exhibit A (the "Information Form") completed and signed by the Responder with the attestation of a notary public. The Information Form requires, among other information:

1. Description of the Responder and the Responding team; and
2. Disclosure of financial information regarding the Responding team, including relevant financial statements.
3. The name, address and telephone number of those individuals who may be contacted during the period of Response evaluation.

Financial Plan:

Each Responder must submit sufficient data to evidence that the proposed Purchase Price can be promptly paid (the "Financial Plan"). The Financial Plan should include the sources, amounts, terms and conditions of financing and the Responder's equity to be employed in the transaction.

VIII. SELECTION PROCESS

GENERAL

ESD may, at any time, exclude Proposals that, in the sole and absolute discretion of ESD, fail to demonstrate compliance with the requirements of this RFP. ESD is under no obligation to accept the highest Purchase Price.

REVIEW PROCESS

ESD will review all Proposals for completeness and compliance with the terms and conditions of this RFP and may request from any or all of the Responders additional material, clarification, confirmation or modification of any submitted Proposal, including Proposals that are incomplete or non-conforming as submitted. Except at the request or by the consent of ESD (which consent shall be in the sole and absolute discretion of the ESD), Responders will not be entitled to change their Proposals once submitted.

A committee consisting of ESD's staff shall review all Proposals and may consult with ESD's advisors.

ESD senior staff will make recommendations to the ESD Directors for selection of one of the Proposals. The selected Responder shall be designated in the sole and absolute discretion of ESD based upon the Selection Criteria (as defined below).

SELECTION CRITERIA

In reviewing and evaluating proposals and preparing recommendations for the ESD Directors, ESD will consider such criteria (all criteria considered by ESD being referred to collectively as the "Selection Criteria") that, in ESD's sole and absolute discretion, are in the best interests of the neighborhood, ESD and the

State. Proposals that meet all requirements of the RFP will be evaluated based on the following Selection Criteria:

- a. The amount of the Purchase Price (35 points);
- b. The proposed plan for the Property (35 points);
- c. Responder's qualifications and financial capability (20 points);
- d. Responder's integrity and previous record of performance and dealings with any state, municipal and federal entities, including, without limiting the foregoing, ESD (10 points).

IX. NON-DISCRIMINATION & AFFIRMATIVE ACTION

ESD's Non-Discrimination and Affirmative Action policy will apply. Purchaser and every successor in interest to the Property shall not discriminate upon the basis of race, creed, color, sex or national origin in the sale, lease or rental, or in the use or occupancy of the Property or improvements erected or to be erected thereon or any part thereof. A covenant to this effect shall be included in the deed and shall run with the land in perpetuity.

It is the policy of the State of New York, and ESD, to comply with all federal, State and local laws, policies, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action in working with contracting parties to ensure that Minority and Women-owned Business Enterprises (M/WBEs), Minority Group Members and Women share in the economic opportunities generated by ESD's participation in projects or initiatives, and/or the use of ESD funds. ESD's non-discrimination and affirmative action policy will apply to this initiative. M/WBEs are encouraged to respond. A copy of each Respondent's equal employment opportunity policy statement and staffing plan of the anticipated workforce to be utilized, shall be included as part of the response to any RFP. Questions regarding the Affirmative Action requirements should be directed to the designated ESD contact person named herein, who will coordinate a response with ESD's Affirmative Action Office.

X. STATE FINANCE LAW REQUIREMENTS – PROHIBITION ON LOBBYING

State Finance Law Sections 139-j and 139-k (collectively, the “Procurement Requirements”) apply to this RFP. These Procurement Requirements (1) govern permissible communications between potential respondents and ESD or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP. Compliance with the Procurement Requirements: (i) all communications regarding this RFP, from the issuance of this RFP through final award and approval of any resulting contract (the “Restricted Period”), be conducted only with the designated contact person(s) listed below; (ii) the completion by respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations and the Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESD web site <http://www.esd.ny.gov/CorporateInformation/RFPs.html>) and (iii) periodic updating of such forms during the term of any contract resulting from this RFP. **Respondents must submit the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law, as part of their submittal. FAILURE TO SUBMIT THESE FORMS WILL RENDER THE PROPOSAL NONRESPONSIVE TO THIS RFP.**

The Procurement Requirements also require ESD employees to obtain and report certain information when contacted by prospective bidders during the Restricted Period, make a determination of the responsibility of bidders and make all such information publicly available in accordance with applicable law. If a prospective bidder is found to have knowingly and willfully violated the State Finance Law provisions, that prospective bidder and its subsidiaries, related or successor entities will be determined to be a non-responsible bidder and will not be awarded any contract issued pursuant to this RFP. In addition, two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State governmental procurement contract.

A copy of ESD's Policy Regarding Permissible Contacts under State Finance Law Section 139-j and 139-k is attached to this solicitation as Exhibit C. Neither this summary nor the referenced Policy is a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html> . All potential Respondents are solely responsible for full compliance with the Procurement Requirements.

ALL QUESTIONS, COMMENTS, REQUESTS FOR CLARIFICATION AND OTHER COMMUNICATIONS REGARDING THIS SOLICITATION [MUST BE IN WRITING AND SUBMITTED TO ROB KWON AT THROOPRFP@EMPIRE.STATE.NY.US. CONTACT WITH ANY OTHER PERSON REGARDING THIS SOLICITATION IS PROHIBITED BY LAW. All questions and requests for clarification will be responded to in writing and disseminated to all persons and organizations having expressed an interest in this solicitation, by posting on the ESD website referenced above.

XI. GENERAL CONDITIONS

ESD does not make any representations or warranties whatsoever with respect to this RFP or the Property including, without limitation, representations or warranties as to: the accuracy or completeness of any information or assumptions contained in or provided in connection with this RFP, or otherwise furnished to Responders; the use or development, or potential use or development, of the Property or any portion thereof; encumbrances, easements, restrictions and agreements with respect to the Property; the physical condition, environmental condition, layout, configuration, size, boundaries, access, location, systems and utilities for all land and improvements constituting the Property and for the adjacent properties; the absence or presence of hazardous substances or toxic materials in, under or upon the Property and the adjacent properties; compliance with environmental laws; and the suitability of the Property for any specific uses or development.

Each Responder shall make its own analysis and evaluation of the Property, including, without limitation: encumbrances, easements, restrictions and agreements with respect to the Property; the physical condition, environmental

condition, layout, configuration, size, boundaries, access, location, systems and utilities for all land and improvements constituting the Property and for all adjacent lands; the absence or presence of hazardous substances or toxic materials in, under, or upon the Property and adjacent lands; compliance with environmental laws; and the suitability of the Property for any use or development. Each Responder shall obtain its own independent legal, accounting, engineering and technical advice on all matters relating to the Property, including, without limitation: examination, review and verification of any information provided by or on behalf of the State, ESD and its advisors; land and improvements constituting the Property and adjacent to the Property; all local laws, regulations and conditions that may affect the use and development of the Property; and all other matters that may be material.

Responders shall not rely upon any statement or information given to Responders by ESD including, without limitation, any information contained in this RFP or other related information.

In the event that the selected Responder does not purchase the Property, ESD may, in its sole discretion, invite any of the other Responders to participate in a further competitive process to determine a new selected Responder.

In addition to those terms and conditions stated elsewhere, this RFP is subject to the following:

- a. The selected Responder must comply with all applicable federal, state and local laws and regulations.
- b. The selected Responder must accept the Property in "as is, where is" condition on the date of closing of title.
- c. Conveyance by ESD shall be by quit claim deed.
- d. Demolition, removal, alteration or conversion of any existing improvement or portions thereof at the Property are to be performed at the sole cost and expense of Purchaser after closing.

- e. ESD will not pay for or refund any costs and expenses incurred by any Responder in responding to this RFP or by any preferred Responder following selection or designation.
- f. All determinations as to the completeness or compliance of any Proposals or as to the eligibility, qualification or capability of any Responder will be within the sole and absolute discretion of ESD.
- g. Selection or designation of any Responder of a Proposal pursuant to this RFP will not create any rights for the Responder including, without limitation, rights of enforcement, equity or reimbursement. ESD shall have no obligation or liability whatsoever to any person or entity whose Proposal is selected or designated as a result of this RFP unless and until a Purchase and Sale Agreement shall have been fully executed and delivered by all parties thereto and all necessary consents and approvals necessary for ESD's entry into such agreement have been obtained, and then all such obligations and liabilities shall be solely in accordance with the terms and conditions of such Purchase and Sale Agreement.
- h. If it is deemed in the best interest of ESD or the State to do so, this RFP may be reissued, amended or withdrawn in whole or in part at any time, including without limitation, after Proposals have been submitted. Issuance of this RFP does not obligate ESD to undertake any action whatsoever.
- i. A Responder may be rejected if ESD determines, in the exercise of its sole and absolute discretion, that such Responder, any Responder partner, or member of a Responder team or any principal, partner, officer, director, affiliated person, or principal shareholder of the Responder, of any Responding partner, or of any member of a Responding team, has been convicted of, or pled guilty or nolo contendere to, a felony or crime of moral turpitude, is an "organized crime figure," under indictment or criminal investigation, or is in arrears or in default on any debt, contract, or obligation to or with ESD, the State or any of their respective affiliates, subsidiaries, agencies, departments or instrumentalities. Each Responder, Responding partner and member of a Responding team and any principal, partner officer director, affiliated person or principal shareholder of the selected Responder, Responding partner or member of the Responding

team may be required to complete a background questionnaire with respect to the foregoing, or other matters, and may be subject to investigation by ESD and the State. All Responders must include a fully-completed Vendor Responsibility Questionnaire, a form which is accessible at <http://www.esd.ny.gov/CorporateInformation/RFPs.html>.

- j. By submitting a Proposal for the Property, the Responder authorizes ESD, or its representatives, to contact the Responder's banks and credit references and any and all other persons identified by the Responder in any materials submitted in connection with this RFP or in any investigation conducted by or on behalf of ESD or the State and obtain release of pertinent financial and other information as well as the verification of the information provided by or on behalf of the Responder.
- k. By submitting a Proposal for the Property, the Responder agrees to abide and be bound by all the terms and conditions of this RFP.