

REQUEST FOR PROPOSALS

Affordable Housing Development Opportunity

8452 Edes and 8350 Edes Avenue, Oakland



Issue Date: March 30, 2021

Due Date: June 1, 2021

Alameda County Community Development Agency

Contact: Michelle Starratt

HCDadmin@acgov.org

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APPENDICES

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I. INTRODUCTION

A. OVERVIEW

In late 2020, Alameda County purchased two hotels and intends to select a development partner to transition these hotels to permanent supportive housing. The properties are currently operated as non-congregate shelters to house homeless individuals during the COVID-19 pandemic. This Request for Proposals (RFP) is to solicit proposals for development of the County-owned buildings, Homekey Hotel 1 (formerly Comfort Inn, “Hotel 1”) and Homekey Hotel 2 (formerly Days Hotel, “Hotel 2”). The selected development partner may receive either a 55+ year lease in order to finance the development program or may receive a fee simple transfer of the property. This final decision will be made by the Board in Fall 2021. Proposals should initially present a financial plan that includes a 55+ year ground lease.

The developer selected through this process will rehabilitate and operate the buildings as permanent supportive housing for people experiencing homelessness under a 55 year regulatory agreement. Both properties are in Oakland near the Oakland Airport. Hotel 1 is a 104-room property and Hotel 2 has 140 rooms. Hotel 1 is located at 8452 Edes and Hotel 2 is located at 8350 Edes Avenue.

This RFP describes how interested developers can secure additional information needed to submit a proposal, the submittal requirements, evaluation criteria, RFP timeline and next steps.

This RFP is inclusive of both hotels. Development teams can choose to submit proposals for one or both sites. The County, in its sole discretion, can choose to select different development teams for each site, choose one development team for both sites, or reject all proposals for either or both properties.

Background

Alameda County purchased the hotels with funds from the California Department of Housing and Community Development (HCD) Homekey Program and the Alameda County Measure A1-funded Acquisition Fund. Homekey provides government entities funding to purchase and rehabilitate housing, including hotels, motels, vacant apartment buildings, and other buildings and convert them into interim or permanent, long-term housing. Under the Homekey program, local entities partner with the state to offer this housing in order to serve people experiencing homelessness or who are also at risk of serious illness from COVID-19.

The County utilized Homekey funding to acquire these two properties and operate them as temporary housing for people experiencing homelessness or at risk of experiencing homelessness and who are impacted by the COVID-19 pandemic. The hotels are currently being operated as temporary housing for this population. Once operations are transferred to the developer selected through this RFP, the hotels will be restricted by the County for 55 years as permanent

supportive housing for households experiencing homelessness whose incomes upon initial occupancy are at or below 30% of Area Median Income (AMI). Once converted into permanent housing, it is not expected that the hotels will be required to house tenants at risk of COVID-19. All prospective residents must be referred through the Coordinated Entry System and prioritized for permanent supportive housing.

The developer(s) selected from this RFP will be required to rehabilitate the properties and create a permanent supportive housing project at each site. The scope of work should address repairs listed in the Physical Needs Assessments, ADA retrofits, increased accessibility, adding kitchenettes in all rooms, exterior improvements, and other system improvements.

Existing Occupants

There are currently individuals staying at the properties as temporary occupants (without leases) while the property is operated as a non-congregate shelter. It is expected that as permanent supportive housing is developed, these individuals (who are high on the coordinated entry list) will be evaluated for permanent tenancy when the properties are rehabilitated and converted into permanent supportive housing. Any occupants in the buildings at the time will need to be temporarily relocated to other rooms while their rooms are being rehabilitated. The buildings are expected to be 60-75% occupied by Spring 2023, which should provide sufficient vacancy to rehab the building on a floor by floor basis.

Physical Needs Assessments

The County conducted Physical Needs Assessments as part of the due diligence before purchasing the Hotels. These are located in Appendix A and identified \$3.7 million in costs for Hotel 1 and \$7.77 million for Hotel 2, and lay out the anticipated work required for the buildings over the next five years. These costs and needs should be included in the rehabilitation budget. In addition, the proposed rehabilitation scope and budget must include the conversion of the properties to permanent supportive housing. It is expected that the successful development partner will include room upgrades that include kitchenette's and or/ cooking facilities that will allow tenants to live independently. Applicants are required to perform their own due diligence related to the full scope and costs. It is also the County's goal to increase accessibility at every point that it is possible to do so within reasonable financial investments.

County Acquisition Funding Provided

Both the County and the State of California invested funding into the acquisition of the properties. Any Financing plan should demonstrate the expected long term loan and regulatory requirements of the HOMEKEY funding. The County provided acquisition loans are expected to be repaid through the proposed financing plan at construction loan closing. This funding totals approximately \$3.5 million for Hotel 1 and \$3 million for Hotel 2. These funds must be included in the proposed development budget.

	Comfort Inn	Days Hotel
Purchase and Sale Price	\$15,250,000	\$18,000,000
Room Count	104	140
State HOMEKEY Funds	\$11,825,000	\$15,000,000
Total County Investment	\$3,425,000	\$3,000,000
Total per Room Cost	\$146,635	\$128,571
Total State Investment per Room	\$113,702	\$107,143
Total County Investment per Room	\$32,933	\$21,429

Timeline for Completion

The hotels were purchased with State Homekey funds and, per the County’s agreement with the State, both hotels must complete construction and begin lease up by the end of 2023.

Operating Subsidies during the Permanent Phase

If needed, the County may provide operating subsidies once the hotels are rehabilitated and leased-up. The amount and source of these subsidies has not been identified. Applicants must state in the financial portion of their application the amount of subsidies needed and time period for which they are needed.

Parking

The parking lots are a part of the development space and their uses must be addressed in the proposal (e.g., rented, developed, used by tenants, etc).

Deadline and Process

Responses to this RFP must be received by the County by **June 1, 2021** at 4:00 p.m. PT. The RFP and attachments will be sent to those who attended the bidder’s conference. Updates will be sent, as necessary.

B. TIMELINE

- RFP released: March 30, 2021
- Site Tours: Week of April 12, 2021
- Final Questions Due: May 1, 2021
- Answers to Final Questions Released: May 7, 2021

Submittals Due:	June 1, 2021
Evaluation and Selection Recommendation:	June- September 2021
Notice of Intent to Award/Non-award	October 2021
BOS Exclusive Negotiating Agreement	November 2021
Lease/Development and Disposition Agreement	June 2022
Financing Obtained	October 2022
Start Construction	March 2023
Complete Construction	December 2023

C. COUNTY OBJECTIVES

The County of Alameda’s objectives for the development of the properties are stated below:

Permanent Supportive Housing for Homeless Alameda County Residents

The County’s major objective is to have the properties rehabilitated and converted into permanent supportive housing for homeless residents. Permanent supportive housing in Alameda County targets people who may have multiple vulnerabilities including serious mental illness, physical disabilities, medical fragility, and long-term homelessness. Developer(s) will need to enter into a Memorandum of Understanding with the County for referral purposes.

Surplus Land Act

In furtherance of this objective, the County is seeking to enter into 55+ year leases with qualified developers under the provisions of Government Code Section 25539.4, which requires that:

- A minimum of 80% of the area of any parcel of property be used for the development of housing.
- A minimum of 40% of the total number of housing units developed on any parcel be affordable to households whose incomes are equal to or less than 75% of the maximum income of lower-income households, and at least half of those units must be affordable to very low-income households. In other words, a minimum of 20% of the units on each property must be affordable to households with incomes that do not exceed 50% AMI and an additional 20% (minimum) of the units on each property must be affordable to households with incomes that do not exceed 60% AMI.
- Affordable units are restricted by a recorded regulatory agreement to remain continually affordable for the longest feasible time, and the agreement shall contain a provision making it binding on successors in interest.

While a minimum of 40% of units at each hotel must meet the affordability requirements of Government Code Section 25539.4, the County will require the properties to be 100% affordable housing.

County Design/Construction Objectives

The County is seeking proposals that will:

- Incorporate green and sustainable design features
- ADA compliance/retrofits and maximize accessibility features
- Design kitchenettes, community spaces, and service programs that are appropriate for the special needs, homeless populations.
- Meet construction quality standards of the California Tax Credit Allocation Committee

County Financial Objectives

The County is seeking development teams with the demonstrated financial capacity to:

- Determine the scope and costs of project.
- Execute on the entitlement process in an expeditious manner.
- Secure all necessary debt and equity funds for the development of the properties.
- Pay back the County's Measure A1 acquisition loans by construction loan closing.
- Secure all necessary operating/rental subsidies. If requesting subsidies from the County, the amount and length of time must be stated.
- Financial proformas submitted should present a long-term lease structure with an annual lease payment. The Board of Supervisors may choose to fully transfer the property based on final decision on whether the properties will be leased or if the County will transfer ownership. Applicants should contemplate a lease in their proposals.
- As stated below, the County requires a minimum annual lease payment of \$5,000 per property. This is an approximate number to be used for the budget. The final amount will be determined during the negotiations of the Exclusive Negotiating Agreement.

D. OTHER REQUIREMENTS

Accessibility and Adaptability: The project shall comply with all applicable federal, state, and local laws regarding the design, construction and rehabilitation of residential projects for persons with disabilities. It is the County’s goal and intent to increase accessibility above minimum requirements.

Prevailing Wages and Measure A1 Workforce Policies: The selected developer shall comply with applicable prevailing wage and apply the Measure A1 Workforce policies to the rehabilitation work.

Relocation: Applicable State and federal relocation requirements will apply to the project, including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and related regulations, California Government Code 7260 et seq and related regulations, and any requirements of State HCD in connection with its Homekey program or otherwise. The selected developer will be responsible for ensuring compliance with all relocation obligations and requirements, including preparing any needed relocation plan. The selected developer will indemnify, defend and hold the County harmless in connection with any claims arising from or relating to relocation.

Site Tours: The County will offer site tours to interested parties. Groups will be scheduled to tour a sample of rooms and the common areas. The tours are anticipated to be scheduled for the week of April 12, 2021 and will be about 3 hours. Each team will be contacted regarding the exact date and process for the site tour.

CEQA: The selected developer will be responsible for CEQA. There is a special CEQA exemption for Homekey projects provided the project stays within certain parameters (Health & Safety Code section 50675.1.2.)

Lease Payment: The County will require a minimum annual lease payment of \$5,000 for each property.

Homekey Regulations: The selected applicant must comply with the State of California Homekey requirements, per the [July 16, 2020 NOFA](#).

II. WRITTEN SUBMITTAL REQUIREMENTS

Please submit clear and concise responses with the information requested below, including a table of contents at the front of the response. Proposals should be organized as follows:

A. EXECUTIVE SUMMARY

A narrative summary, no longer than **four** pages, of the highlights of the proposal, including a clear statement of any benefits to the County.

If the proposal is for both properties, the summary should include information on the development team's ability to complete development of both properties in a timely manner.

B. PROJECT TEAM

Identify and describe the development team with the following information:

- Description of the project team, including the legal name of submitting organization(s) (and any parent(s) or affiliate(s), entity description of submitting organization (e.g. 501(c)(3), corporation, joint venture, limited partnership) and date established.
- Name, title, address, phone number and e-mail address of the person designated as the primary contact person for the development team.
- Name, title, and contact information of the person(s) authorized to negotiate on behalf of the submitting organization(s).
- Name, title, and contact information of the person(s) authorized to execute agreements with the County.
- Names and roles of all others in the development entity assigned to this project.
- Names and roles of all team members (i.e., architects, engineers, consultants, contractors, capital partners) and organizations included in the proposal, and the relationships between the team members and organizations.
- Identify all team members and organization that are Alameda County-based, have offices in Alameda County, and/or are listed on the County's SLEB database (https://www.acgov.org/sleb_query_app/gsa/sleb/query/slebmenu.jsp) including the nature of work they will perform.
- History of experience: list of projects, description, size, cost, location.
- Submit the staffing and state how many projects each staff person will have including the hotels. This is to demonstrate that your organization has the capacity to develop the hotels and begin lease-up by the end of 2023.

C. DEVELOPMENT VISION

Provide a narrative description of the proposed development plan for the property or properties. The narrative should clearly address the County's stated goals for the properties, as well as specific information regarding:

- Marketing plan
- Relocation plan
- Supportive services plan and budget. The services plan should anticipate providing a 1/25 case management to client ratio, clinical supervision, community-building, and connections to other needed services such as behavioral health and workforce development. The program must be "Housing First" and use harm reduction strategies.

Applicant should describe the provider's (applicant or named subcontractor) competence in permanent supportive housing programs.

- Community engagement
- Amount and type of nonresidential uses including any ground-floor uses
- Proposed amenities
- Green building features
- Accessibility features
- Any special features

Provide detailed site plans, elevations, perspectives, schematics and floor plans that clearly illustrate the development vision. All drawings should be no larger than 11 x 17 inches.

D. PROPERTY MANAGEMENT

Provide a detailed description of how the proposed development will be maintained and managed. Provide management examples from other projects of similar design and scale that the development team has successfully implemented.

E. CONSTRUCTION WORKFORCE AND CONTRACTING COMMITMENTS

The County will require that the properties comply with State prevailing wage laws (Labor Code §1720 et seq.), if applicable. More information on compliance and wage rates can be found at the California Department of Industrial Relations website: <https://www.dir.ca.gov/>. Selected developers will be required to provide certified payrolls to the County as well as any other prevailing wage monitoring reports.

The County is seeking to maximize the employment of Alameda County residents, particularly disadvantaged residents, as well as maximizing contracting with Alameda County-based businesses, particularly small, minority-owned and women-owned businesses, as defined in the Measure A1 Implementation Policies Sections VIII and IX. The County is seeking a commitment from the development team(s) to, at a minimum, meet the numeric goals for each of these categories set forth in Sections VIII (B), IX(A) and (B) of the Measure A1 Implementation Policies for the development projects as a whole.

The proposal should specify how the development teams intends to comply with prevailing wage and hiring and contracting goals.

F. PROPOSED PROJECT SCHEDULE AND BENCHMARKS

Provide a detailed project schedule that clearly indicates anticipated timelines for due diligence, negotiation of business and lease terms, financing, construction, lease-up and stabilization, using suggested schedule in the RFP. Provide an explanation for any deviations from the proposed schedule.

G. FINANCIAL OFFER

As described below, provide details regarding the proposed project's feasibility and proposed financial terms. These details will be understood to represent the development team's expectations based on expected project costs and revenues, as well as financing considerations.

1. Pro Forma

Provide a detailed pro forma that shows the sources and uses of funds, development costs, income statement, unit mix, and cash flow statement under a ground lease structure. Applicants may also submit additional pro forma scenarios under a fee-simple ownership structure. The pro forma(s) should include, but is not limited to:

- a. A development budget indicating total project costs, including all direct, indirect, and financing costs, name and amount of sources, construction and permanent sources, that clearly specifies key assumptions and how calculations are made, including from predevelopment up to, and including, stabilized operations.
- b. Clearly defined developer fee statement that includes the amount of required cash out during construction and permanent conversion phases, and the amount amortized over the first 12 years.
- c. Clearly defined partnership and asset management fees taken from the cash flow and any escalation expected.
- d. A 20-year cash flow statement detailing assumptions for all sources of income, AMI's of tenants, a vacancy factor, escalators, detailed operating expense budget including proposed lease payment, net operating income, capital reserves, debt service, and debt coverage ratios.
- e. Source, amount, length of any operating/rent subsidies.
- f. Source, amount, length of services funding.
- g. Relocation costs

Tax Credit 10 Year Hold Rule: The ownership history of the properties are included in the Appendices to document how long the previous owners owned the properties. Both properties were owned by the previous owners for at least 10 years. Applicants are required to consult a tax attorney regarding the eligibility of the properties for tax credits.

2. Development Financing Plan

In addition to the budgets, provide a narrative explanation of the proposed project's expected financial structure, including potential sources and amounts of equity and debt financing, as well as any expected affordable housing financing required from local, state or federal sources. Being as specific as possible, identify any assumed reliance on external funding sources (grants, tax credits, etc.) and the development team's experience and competitiveness securing these funding sources.

Define assumptions and caveats of development timing and sources. Ensure all information provided is consistent with the pro forma.

3. **Operating Financing Plan**

The proposal should describe the name, amount, and timing of anticipated subsidies and the development team's experience and competitiveness in securing these funding sources.

4. **Ownership Entity Structure**

The proposal should include the ownership structure for the entity proposed to develop, own and manage (if applicable) the projects, including the roles of all development team members that will be part of the ownership entity. If the proposal contemplates use of a limited liability company or another project-specific single purpose entity to hold the properties upon execution of the lease, identify the entity that will provide any necessary completion or financing guarantees. These entity descriptions shall show entity liability throughout the life of the development (i.e., pre-development, construction and asset management). Provide an organizational chart that denotes the proposed ownership structure and associated cash flow.

5. **Organization Financial Audits**

Each organization must submit the following:

- 3 most recent year's audited financials
- List of real estate owned with cash flow and debt or expense coverage ratios
- List and explanation of any properties with liens or lost through foreclosure/bankruptcy

H. EXCLUSIVE NEGOTIATING AGREEMENT

A draft Exclusive Negotiating Agreement can be found in the **Appendices**. Please provide a review copy (in Word) on the submitted flash drive with any suggested changes highlighted. Please also complete the Performance Schedule with proposed dates. All changes to the Exclusive Negotiating Agreement are subject to the approval of the County and dates for the Performance Schedule will be subject to negotiation between the County and the selected development team.

III. SUBMITTAL PROCESS

A. INQUIRIES AND ADDENDA

Following the release of the RFP on March 30, 2021, respondents may submit written inquiries via e-mail to Michelle Starratt at HCDadmin@acgov.org, the County's lead on this solicitation. Addenda will be released regularly to all teams to answer any written questions received. All questions must be received no later than **May 1, 2021** and the County will issue a final

addendum responding to all teams with answers to these questions by **May 7, 2021**. If questions and comments are deemed to result in a substantial change to what is requested in the RFP, County staff may consider issuing an addendum that extends the due date of the proposals.

B. SUBMITTAL DUE DATE

Proposals will be due by **4:00 PM, June 1, 2021**. Please submit **ten (10)** hard bound copies, one unbound copy and one digital copy of the proposals (flash drive). Proposals should be delivered to:

Michelle Starratt
Alameda County Community Development Agency
224 W. Winton Ave., Room 108
Hayward, CA 94544
HCDadmin@acgov.org
(510) 670-5939

IV. EVALUATION CRITERIA AND SCORING

An Evaluation Committee, selected by the directors of the County Administrator, Community Development Agency, Health Care Services Agency, and Social Services Agency will evaluate the submitted proposals. The Evaluation Committee may also conduct interviews (via Zoom) with the development teams to further clarify any aspects of the proposals.

Submitted proposals for each Property, as clarified by interviews, will be evaluated in accordance with the following criteria with the proposal or proposals with the highest points being selected:

Project Team/Personnel (30 possible points)

Does the project team have relevant experience with similar projects? Has the team completed projects in Alameda County and Oakland specifically? Does the team have the capacity to complete projects within the timeframe? Does the team have experience with relocation? Does the team have the capacity and experience to serve the target population long-term and meet all funders’ requirements? Does this team have experience staying in compliance with regulatory requirements?

Services Plan (30 possible points)

Does the project team have an appropriate services plan and experience to serve the target population?

Financial (30 possible points)

Can the project team acquire the necessary funding to complete the rehabilitation and meet the County's deadline to complete construction by 2023?

Green Building

(5 possible points)

Does the rehab plan incorporate green building and sustainability features to the maximum extent possible?

Business Office in Alameda County

(5 possible points)

In addition to the 100 points achievable through the written proposal, up to 30 additional points may be awarded based on performance during the oral interviews.

V. RFP SELECTION PROCESS AND PROJECT DEVELOPMENT

Following interviews and scoring of the proposals, one or two project teams will be selected for one or both properties and, County staff and legal counsel will engage with the selected developer(s) in negotiating and executing the Exclusive Negotiating Agreement (ENA)(s). When a project team(s) are selected, the County will issue a Notice of Intent to Award/Non-Award to all respondents identifying the selected project team(s). If the negotiations are unsuccessful, the County may move to the next most qualified respondent, reissue the RFP, terminate the process entirely, or take any other measure it deems appropriate, as determined in its sole discretion. County staff will present the recommendation for the selected development team(s) and the negotiated ENA(s) to the Board of Supervisors for its approval simultaneously. The ENA(s) will only be effective after approved by the Board of Supervisors and executed by the County.

The negotiated non-binding term sheet will be presented to the Board of Supervisors for its approval. If the Board of Supervisors fails to approve the term sheet, the County may elect to continue negotiations toward an acceptable term sheet, move to the next qualified respondent, reissue the RFP, terminate the process entirely, or take any other measure it deems appropriate, as determined in its sole discretion.

Upon successful completion of exclusive negotiations and approval by the Board of Supervisors of the Lease Disposition and Development Agreement (LDDA) and Lease, the County and selected Developer(s) will enter into a LDDA. If the negotiations are unsuccessful, the County may move to the next most qualified respondent, reissue the RFP or terminate the RFP process, or take any other measure it deems appropriate, as determined in its sole discretion. In electing to so terminate the RFP process, the County shall have no liability or obligation to any respondent for the costs or effort expended in addressing and responding to the RFP through such date of termination.

Following completion and certification of the appropriate California Environmental Quality Act (CEQA) review, the Board of Supervisors will review and consider approval of the negotiated LDDA and lease.

Upon satisfaction of all conditions precedent in the LDDA, the County and respondent will execute the lease. The County will be actively monitoring the development and asset management phases of the Project to ensure Project compliance with the applicable LDDA and lease terms.

VI. GENERAL INFORMATION

A. RIGHTS OF THE COUNTY

This RFP does not obligate the County to select any project team, nor does it commit the County to enter into an ENA. Costs incurred in preparation and submission of proposals are the sole responsibility of the proposers.

The County may require additional evidence or qualifications to perform the services described in this RFP.

The County reserves the right to:

- Reject any or all proposals or to advertise for new proposals.
- Modify the RFP process (with appropriate notice to respondents).
- Postpone interviews or the evaluation process for its own convenience.
- Remedy technical errors in the RFP process.
- Approve or disapprove the use of particular partners/subcontractors.
- Waive weaknesses, informalities and minor irregularities in proposals, permit corrections, and seek and receive clarifications to a proposal.
- Hold meetings, conduct discussions and communicate with the teams responding to this RFP to seek an improved understanding and evaluation of the proposals.
- Solicit best and final offers at the discretion of the County before final scoring.
- To select separate respondents for each of the hotels, or to select one respondent to develop both hotels.
- Evaluate and select a project team on the basis of information other than financial terms.
- Negotiate with any, all or none of the respondents.
- Terminate negotiations with the selected respondent(s) at any time and in the County's sole discretion, prior to the County's execution of the ENA.

The County's waiver of minor irregularities shall in no way modify this RFP or excuse the respondent from full compliance with requirements if the respondent is selected for negotiation.

The County will have full and sole discretion to determine the criteria and process of evaluation for this RFP, which (if any) respondent will be selected for negotiation of a LDDA and ground lease, or whether or not a LDDA and lease will ever be awarded as a result of this RFP.

B. SUBMISSION CONFIDENTIALITY

The California Public Records Act (California Government Code Sections 6250 et seq.) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the material submitted in response to this RFP may be made available to the public. Project teams should not submit material that they desire to remain confidential.

All information regarding the proposals, including the proposals, will be held as confidential until such time as the County Selection Committee has completed its evaluation, a recommendation to award has been made by the County Selection Committee, and the ENA has been fully negotiated with the recommended awardee(s) named in the Notice of Intent to Award/Non-Award. The submitted proposals shall be made available upon request no later than five calendar days before the recommendation to award and enter into the ENA is scheduled to be heard by the Board of Supervisors. All respondents submitting proposals will be sent the Notice of Intent to Award/Non-Award, which will include the name of the respondent to be recommended for award of this project.

C. NO WARRANTY

Respondents are required to examine this RFP, including all appendices and all public records relating to the properties carefully. Failure to do so will be at the respondent’s own risk. It is assumed that the respondent has made full investigation so as to be fully informed of the extent and character of the services requested, the requirements of this RFP and any laws or regulations that may affect its ability to carry out the Project. No warranty is made or implied as to the accuracy and/or completeness of any of the information, descriptions, opinions or legal references contained in this RFP (or otherwise provided by County staff, consultants, officers or agents) and respondents are required to do their own due diligence as to all matters discussed herein and in their proposals.

D. EXPENSES AND USE OF SUBMITTALS

All expenses involved with preparation and submission of responses to this RFP, including costs for attending any associated site visit, oral presentation, interview or other pre-award activities, will be borne by the respondent. All proposals submitted in response to this RFP become the property of the County and may be used without restriction or liability by the County. A respondent may request the return of its proposal upon cancellation of the RFP by the County. The County may grant or deny a request to return a proposal at its sole discretion.

E. DISQUALIFICATION

To be considered for selection, the respondent and any firms identified as team members must have all necessary licenses, registration, and credentials required for the services they will perform.

The County, in its sole discretion, may disqualify a respondent or proposal if it becomes aware, or has credible evidence, of any of the following:

- Contact regarding this RFP between any respondent or any agent of respondent with any County official, Board Member, or employee, outside of a properly noticed County public meeting, except for those contacts listed in Section III.A (as it may be updated by the County) from the time of issuance of this RFP until the County Board of Supervisors approves selection of a developer for ENA negotiations.
- Collusion, either directly or indirectly, amongst respondents with regard to any key terms of this RFP.
- Improperly attempting to influence any County official or employee throughout the RFP process with regard to development specifications, evaluation process or final selection.
- Offering gifts or souvenirs, even of minimal value, to any County official or employee.
- Omissions, misrepresentations, or false information that may impact the County's accurate and fair evaluation of the proposals.
- The proposal's failure to meet conditions of any mandatory proposal submission requirements set forth in this RFP.
- Respondent's or a member of respondent's team's inability to complete or perform the work described in the proposal.
- Financial insolvency of respondent or any member of respondent's team.
- The default of respondent or of any member of respondent's team under any agreement with the County.

Furthermore, a respondent's failure to provide complete and/or accurate information in response to this RFP may disqualify the respondent from further participation in this selection process as determined in the County's sole discretion. A response may be corrected, modified, or withdrawn, provided that a written request by respondent is received by the County contact (listed above) prior to the date and time designated in the RFP for receipt of proposals.

F. PROTESTS

The County prides itself on the establishment of fair and competitive contracting procedures and the commitment made to following those procedures. The following is provided in the event that respondents wish to protest the RFP process or appeal the recommendation to award once the Notices of Intent to Award/Non-Award have been issued. Protests submitted prior to issuance of the Notices of Intent to Award/Non-Award will not be accepted by the County.

1. Any protest by any respondent regarding any other proposal must be submitted in writing to Michelle Starratt, Alameda County Community Development Agency, 224 W. Winton Ave., Room 108, Hayward, CA 94544, before 5:00 p.m. of the FIFTH (5th) business day following the date of issuance of the Notice of Intent to Award/Non-Award, not the date received by the respondent. A protest received after 5:00 p.m. is considered received as of the next business day
 - a. The protest must contain a complete statement of the reasons and facts for the protest.
 - b. The protest must refer to the specific portions of all documents that form the basis for the protest.
 - c. The protest must include the name, address, email address, fax number and telephone number of the person representing the protesting party.
 - d. The County will notify all respondents of the protest as soon as possible.
2. Upon receipt of written protest, the Alameda County Community Development Agency (“CDA”), or designee, will review and evaluate the protest and issue a written decision. CDA, may, at its discretion, investigate the protest, obtain additional information, provide an opportunity to settle the protest by mutual agreement, and/or schedule a meeting(s) with the protesting respondent and others (as appropriate) to discuss the protest. The decision on the protest will be issued at least ten (10) business days prior to the Board hearing date. The decision will be communicated by e-mail, fax, or US Postal Service mail, and will inform the bidder whether or not the recommendation to the Board of Supervisors in the Notice of Intent to Award/Non-Award is going to change. A copy of the decision will be furnished to all respondents affected by the decision. As used in this paragraph, a respondent is affected by the decision on a protest if a decision on the protest could have resulted in the respondent not being the apparent successful respondent.
3. The decision of CDA on the protest may be appealed to the Auditor-Controller's Office of Contract Compliance & Reporting (OCCR) located at 1221 Oak St., Room 249, Oakland, CA 94612, Fax: (510) 272-6502 unless the OCCR determines that it has a conflict of interest in which case an alternate will be identified to hear the appeal and all steps to be taken by OCCR will be performed by the alternate. The respondent whose proposal is the subject of the protest, all respondents affected by CDA's decision on the protest, and the protestor have the right to appeal if not satisfied with CDA's decision. All appeals to the Auditor-Controller's OCCR shall be in writing and submitted within five (5) business days following the issuance of the decision by CDA, not the date received by the respondent. An appeal received after 5:00 p.m. is considered received as of the next business day. An appeal received after the FIFTH (5th) business day following the date of issuance of the decision by CDA shall not be considered under any circumstances by CDA or the Auditor-Controller OCCR.

- a. The appeal shall specify the decision being appealed and all the facts and circumstances relied upon in support of the appeal.
 - b. In reviewing protest appeals, the OCCR will not re-judge the proposal(s). The appeal to the OCCR shall be limited to review of the RFP process to determine if CDA materially erred in following the terms of the RFP process or, where appropriate, County policies or other laws and regulations.
 - c. The appeal to the OCCR also shall be limited to the grounds raised in the original protest and the decision by the CDA. As such, a respondent is prohibited from stating new grounds for a protest in its appeal. The Auditor-Controller (OCCR) shall only review the materials and conclusions reached by CDA or department designee and will determine whether to uphold or overturn the protest decision.
 - d. The Auditor's Office may overturn the results of an RFP process for ethical violations by CDA staff, County Selection Committee members, subject matter experts, or any other County staff managing or participating in the competitive process, regardless of timing or the contents of a protest.
 - e. The decision of the Auditor-Controller's OCCR is the final step of the appeal process. A copy of the decision of the Auditor-Controller's OCCR will be furnished to the protestor, the respondent whose proposal is the subject of the protest, and all respondents affected by the decision.
4. The County will complete the protest/appeal procedures set forth in this paragraph before a recommendation to award is considered by the Board of Supervisor.
 5. The procedures and time limits set forth in this paragraph are mandatory and are each respondent's sole and exclusive remedy in the event of a Protest. A respondent's failure to timely complete both the protest and appeal procedures shall be deemed a failure to exhaust administrative remedies. Failure to exhaust administrative remedies, or failure to comply otherwise with these procedures, shall constitute a waiver of any right to further pursue the protest, including filing a Government Code Claim or legal proceedings.

G. ACKNOWLEDGEMENTS

Respondents expressly acknowledge that they are aware that if a false claim is knowingly submitted (as the terms "claim" and "knowingly" are defined in the California False Claims Act, Cal. Gov. Code, §12650 et seq.), County will be entitled to civil remedies set forth in the California False Claim Act. It may also be considered fraud and the Respondent may be subject to criminal prosecution.

In submitting a proposal, each respondent certifies that it is not, at the time of submission, on the California Department of General Services (DGS) list of persons determined to be engaged in investment activities in Iran or otherwise in violation of the Iran Contracting Act of 2010 (Public Contract Code Section 2200-2208).

In submitting a proposal, each respondent, its principal and named subcontractors are not identified on the list of Federally debarred, suspended or other excluded parties located at www.sam.gov. Each respondent agrees to be bound by the County's Debarment/Suspension policy, which can be found here:

Debarment / Suspension Policy

[<http://www.acgov.org/gsa/departments/purchasing/policy/debar.htm>]