



BADER FIELD RFP
REQUEST FOR PROPOSALS
For Development At
Bader Field



I. Description:

Pursuant to the authority vested in the City of Atlantic City under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et. seq. (the “LRHL”) and N.J.S.A. 40A:5-14.2 et. seq. (the “High Value Asset Law”), the City of Atlantic City (“City”) through Jones Lang LaSalle (“JLL”) is soliciting proposals (“Proposals”) through this Request for Proposals (“RFP”) from qualified parties (“Respondent” or “Respondents”) for the development of all or a portion of real property commonly known as Bader Field and identified on the City’s official tax map as Block 794, Lot 1 (“Bader Field” or the “Site”).

The Site:

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| LOCATION | Bounded by Route 40/322 (Albany Ave) to the Southwest, Intracoastal Waterway to the Southeast and Beach Thoroughfare to the Northeast, the Site is approximately .25 miles across water from the AC Expressway |
| BLOCK AND LOT NUMBERS | Block 794/ Lot 1 |
| SIZE (approximate) | 2,950 feet x 3,200 feet x 2,950 feet |
| LOT AREA (approximate) | 6,200,000 square feet |
| ACREAGE (approximate) | 142.25 acres |
| ZONING | Resort Commercial District (RS-C) zoning designation - <i>Exhibit B-1</i> , as further defined in the Redevelopment Plan for Bader Field - <i>Exhibit B-2</i> |

Location: Bader Field is located on a triangular-shaped peninsula bounded by two bodies of water, the Beach Thoroughfare and Inside Thoroughfare a/k/a Intracoastal Waterway, 5 blocks from the City’s famed Beach and Boardwalk. It is adjacent to the Chelsea Heights neighborhood of Atlantic City from which it is separated by the five-lane Rt. 40/332, aka, Albany Avenue.

Opportunity: Bader Field presents a unique opportunity for qualified parties to develop a world class destination. The proposed development could include, but is not limited to: casino, hotel, retail, entertainment, residential and commercial uses, in the context of a vibrant mixed-use waterfront resort and entertainment district that will further establish Atlantic City as a premier resort destination. For further detail please see the Redevelopment Plan for Bader Field - *Exhibit B-2*.

City Goals: Key City goals in the development of Bader Field are to:

- Maximize best value for the City (“Best Value”), which is defined generally as the total economic value of the sum of: (i) upfront and future payments, (ii) the value of any in-kind considerations received by

the City and (iii) the value of any other economic benefits received by the City or on behalf of its citizens that in the sole judgment of the City, are bona fide, legitimate, quantifiable and reasonable benefits less the economic value of any negative economic impacts caused by the Respondent's project.

- Further establish Atlantic City as a national and international resort destination.
- Achieve excellence in architecture, urban design and sustainability.
- Promote the use of small business in Atlantic City and promote employment of city residents by meeting specific and measureable milestones.

Use of Proceeds The proceeds from the disposition of the Site and the ultimate development of Bader Field will be an important source of funds to support the City in continuing to improve the City's financial stability, services and quality of life for its citizens, businesses, and visitors. As a high value asset in a municipality with casino gaming, the disposition of the Site must conform to High Value Asset Law recently enacted by the State - *Exhibit C*. Pursuant to this law, the proceeds from the disposition of Bader Field must go into a trust in accordance with an allocation plan approved by the State of New Jersey Local Finance Board ("LFB").

Government Units Endorsement: The City has obtained the support of the multiple agencies required to advance the development of the Site by working collaboratively with the State of New Jersey ("State") and its agencies and independent authorities to develop this RFP and identify issues relating to the ultimate development of Bader Field. These issues include, but are not limited to upgrading the transportation access to the Site, whereby the City expects to receive the cooperation of the agencies controlling the primary roads adjacent to the Site, the Atlantic City Expressway, owned by the South Jersey Transportation Authority and Routes 40/322 owned by the New Jersey Department of Transportation. Attached in *Exhibit D* are letters from the County, State and its various departments, agencies, units and subdivisions supporting the City's effort to develop Bader Field.

Site Visits and Pre-Submission Meeting: The City will provide each Respondent the opportunity to inspect the Site. Site visits as well as a pre-submission meeting(s) will be scheduled in accordance with Section III – *"Registration, Inquiries & Communications."*

Disposition: The City will consider a disposition(s) in the form of non-subordinate ground lease(s) ("Lease") of up to 99-years provided such ground lease includes a substantial up front payment to the City upon execution of the lease documents (the "Primary Proposal"). Respondents may elect to submit an additional proposal ("Supplemental Proposal"), with a different disposition structure subject to providing a bona fide Primary Proposal. See *Section X - RFP Submission Guidelines* for further details on the bidding process.

Designation Process: The process by which a Respondent will be formally designated as the/a developer for the Site is outlined in *Section X - RFP Submission Guidelines* of this RFP and set forth in the LRHL attached hereto as *Exhibit E*, and the High Value Asset Law - *Exhibit C*. Pursuant to the High Value Asset Law, the City sought and obtained approval of the proposed plan for conducting the disposition of the Site from the LFB before issuing this RFP - *Exhibit F*. The High Value Asset Law also requires that prior to adoption of any ordinance authorizing the disposition of the Site (the end result of this RFP

process), the City is required to receive a certification from the LFB that the outcome of the disposition process complies with the previously approved disposition plan and that the proposed disposition(s) reflects the highest and best use(s) of the Site. In addition, the City must file an application to the LFB at least 30 days prior to the proposed disposition(s) closing date for the purpose of approving the City's plan to allocate the proceeds from the disposition(s). The LFB will schedule a hearing to approve such allocation plan within 45 days of receipt of the application. The City may apply separately or simultaneously for certification of the disposition plan and approval of the allocation of proceeds plan. Once adopted by the City and certified by the State, the successful Respondent(s) will become the/a formal designated developer(s) (the/a "Designated Developer") for all or a portion of the Site.

Guaranties and Documentation: The City will require the Designated Developer(s) to provide at closing a creditworthy guaranty and/or other financial security, in form and substance satisfactory to the City, securing the Designated Developer(s)'s obligation for payment. The legal documentation is more particularly described in *Exhibit G, Certain Material Terms of the Disposition Contract* and *Section X(C)(11) - RFP Submission Guidelines – BUSINESS TERMS – Exceptions to Certain Material Terms of the Development Agreement*.

II. Submission Date & Place:

The City will consider Proposals from one or more developers or teams of developers (each a "Respondent") that desire to develop all or a portion of Bader Field. Fifteen (15) bound originals and fifteen (15) CD-ROMs (read-only) of the Proposals, including all forms and attachments, must be received by JLL at the address below on or before 5:00 p.m., Wednesday January 14th, 2009 (the "Proposal Due Date") and must be accompanied by a good faith deposit of \$250,000USD (the "Administrative Fee") in the form of a certified check or bank check or letter of credit made payable to the order of "The City of Atlantic City." See *Section X - RFP Submission Guidelines* for further details. All Proposals must be sealed to provide for confidentiality of the information contained therein and to ensure that Proposals remain intact until opened.

All Proposals must be addressed to:

Jones Lang LaSalle
153 East 53rd Street
33rd Floor
New York, New York 10022
Attn: Bader Field Project Team

Any Proposal received after the Proposal Due Date will be returned unopened. A Proposal will be deemed to have been received only if it is delivered directly to the above address by the Proposal Due Date. Time stamped receipts will be provided for any hand-delivered Proposals. An e-mail ("Confirmation E-mail") will be sent to the Respondent's designated Point of Contact once received. Proposals may only be left at the reception desk in the lobby of JLL's office on the 33rd Floor of 153 East 53rd Street, New York, NY ("Building"). Proposals will not be deemed to be received if delivered to any other JLL office, facility or address, or any other City, State or government agency. In light of security measures in effect at the Building, Respondents should allow extra time to access the Building when delivering Proposals. Respondents are responsible for determining and complying with all current procedures for entering the Building, including without limitation, providing necessary identification.

III. Registration, Inquiries & Communications:

The RFP, addenda to the RFP, if any, and other general and/or public information will be publicly available on the following website (the “Bader Field RFP Website”):

<http://www.baderfieldrfp.com>

A link to the Bader Field RFP Website will be located on the City of Atlantic City website (which may be accessed at <http://www.cityofatlanticcity.org>). Each Respondent must be registered in accordance with the registration process described in *Exhibit H*, which includes the payment of a non-refundable registration fee of thirty-five thousand dollars (\$35,000USD) (the “Registration Fee”), delivered by registered mail or overnight courier to JLL’s office at the address set forth below, made payable to the “City of Atlantic City” for deposit by the City into the City Council Bader Field Redevelopment Escrow Account for the uses authorized under such escrow account. The Registration Fee shall be in the form of a certified check or bank check; no other forms of payment will be accepted.

Upon registration, the Respondent will be designated as a “Registered Respondent” and be provided with access to supplemental information via a password secured electronic format, which will include due diligence materials, background information, technical documentation and other useful information, including but not limited to, certain Exhibits to this RFP and the Form of Submission (“FOS”). In addition, registration will enable the City to email updates, notices and other additional information about this RFP to all Registered Respondents. As part of the registration process, Respondents will be required to enter into a confidentiality and non-disclosure agreement - *Exhibit H* to protect unapproved disclosure of certain confidential and safety/security sensitive information that will be available only to Registered Respondents. The Designated Point of Contact (explained below) will notify all Registered Respondents of updates to the site via e-mail.

Proposals will only be accepted from Respondents who have registered prior to the Proposal Due Date.

All inquiries and communications concerning the Bader Field RFP are to be directed in written form by mail or email to JLL:

Jones Lang LaSalle
153 East 53rd Street
New York, New York, 10022
Attn: Bader Field Team
Email: BaderRFP@am.jll.com

Requests for clarification concerning this RFP should be made by **registered mail or email only** to JLL at the above email address. No employee of the City of Atlantic City, State of New Jersey, or any of their respective public agencies or advisors are authorized to give interpretations of this RFP or additional information regarding the requirements of this RFP directly or indirectly to individual Respondents or their representatives. Interpretations or additional information with respect to this RFP, if provided, will be publicly communicated from JLL to all Registered Respondents by email or written addenda, and posted on the Bader Field RFP Website, and shall be considered part of the RFP. **JLL is the single point of contact (“Designated Point of Contact”) and all direct or indirect contact concerning this RFP must be made through JLL. Direct or indirect contact by a Respondent, its Principals or consultants (“Participants” or “Development Team Members”) or any third-party**

person or entity representing a Respondent or a Respondent's interest, retained directly or indirectly by a Respondent, with or without compensation, with the City (its employees, elected officials, contractors, etc.) or any other party involved in the selection and approval of the Designated Developer may result in immediate disqualification.

Using the form provided as *Exhibit I*, Respondents shall disclose and have an on-going obligation to disclose certain information with respect to any persons and organizations retained, employed or designated by or on behalf of a Respondent or any of its subsidiaries or entities owned by any of a Respondent's principals, employees or consultants, individually or collectively with or without compensation, to directly or indirectly influence the City, County and State or any of their representatives or contractors, on any and all business matters. Each Respondent shall be required to proactively update such information throughout the selection process. Any non-disclosure or failure to proactively update *Exhibit I* and disclose any updates may result in immediate disqualification.

In addition to the above, the disposition of Bader Field and the RFP Process are subject to New Jersey state law, including, without limitation, the LRHL, the High Value Asset Law, the Municipal Land Use Law (N.J.S.A. 40:55D-1 et. seq., the "MLUL"), and Atlantic City Ordinances. By registering in accordance with this RFP, Respondents acknowledge and agree to abide by all applicable laws of the State of New Jersey and its political subdivisions pertaining to this solicitation and the disposition of Bader Field. A copy of the MLUL can be downloaded from: <http://policy.rutgers.edu/cgs/PDFrc/NewJerseyMunicipalLandUseLaw12-23-2005v2.pdf>. A copy of Atlantic City Ordinances can be downloaded from: http://www.cityofatlanticcity.org/con_gov_cityclerk_geninfo.asp.

IV. Background & Current Conditions:

Bader Field was opened as the world's first Airport in 1910. To support the City's growing population and tourism base, the City of Atlantic City purchased the Site in 1922 under Mayor Edward L. Bader, and continued to invest in its aviation infrastructure, while developing certain parcels for public use. During World War II Bader Field continued its commercial use, but also served as the headquarters of the Civil Air Patrol (CAP), established one week before Pearl Harbor. Returning to commercial use after the War, Bader Field remained operational until 2006, when the City permanently closed the airport routing all flights to Atlantic City International Airport.

Existing Private Facilities: The map on file with the Clerk's Office, City of Atlantic City – City Hall, 1301 Bacharach Boulevard, Atlantic City, New Jersey ("City Hall") identified as *Exhibit J-1* to this RFP identifies existing facilities on the Site (the "Existing Private Facilities"). There are two Existing Private Facilities on the Site: (1) Sandcastle Stadium, a 6,000 seat minor league baseball stadium with approximately 2,000 parking spaces; and (2) Flyers Skate Zone, an indoor ice rink. Both of these Existing Facilities are currently subleased from the Casino Reinvestment Development Authority ("CRDA") through individual subleases (the "Individual Subleases"). CRDA leases the portions of the Site on which the Existing Facilities are located from the City through a Master Lease. A copy of the Master Lease and Individual Subleases are contained in *Exhibit K*.

Existing Public Facility: The map on file with the Clerk's Office at City Hall identified as *Exhibit J-2.1* to this RFP ("*Existing Public Facilities at Bader Field*") identifies an existing public facility (the "Public Boat Launch"), on the Site. This Public Boat Launch includes approximately 3.9 acres including vehicle and trailer parking with a concrete ramp capable of launching registered recreational watercraft such as boats, jet skis, etc. *Exhibit J-2.2* to this RFP is

accessible to Registered Respondents only on file with the Clerk's Office at City Hall or via the Bader Field Website and contains detailed engineering information about the Public Boat Launch, including its engineering specifications and construction materials. Should the Designated Developer decide to relocate the Public Boat Launch to accommodate its plan for the redevelopment of the Site, the Designated Developer shall be responsible at its sole cost and expense to replace the Public Boat Ramp in kind on the Site at a location and in a configuration acceptable to the City.

Utilities: The following provides a brief summary of utilities available to the Site. *Exhibit L* to this RFP is accessible to Registered Respondents only via the Bader Field Website or on file with the Clerk's Office at City Hall and provides a technical summary of these utilities.

- Electric:
Provider: Atlantic City Electric Company
Description: Power supply is available from the infrastructure located on Albany Avenue
- Water:
Provider: Atlantic City Municipal Utilities Authority (ACMUA)
Description: A 48 inch water main runs to the Site.
- Sewage:
Provider: Atlantic City Sewerage Company (ACSC)
Description: active sewage on the site is delivered through an 8 inch sanitary sewer main on Albany Avenue.
- Natural Gas:
Provider: South Jersey Gas (SJ Industries is the parent, SJ Gas is the operating company)
Description: active gas on the site is delivered through 12 and 8 inch gas mains along Albany Avenue.

Green Acres: According to officials from the New Jersey Department of Environmental Protection ("NJDEP"), roughly 20.32 acres along Albany Avenue are subject to Green Acres Regulations. *Exhibit M-1* ("*Green Acres Map*") to this RFP on file with the Clerk's Office at City Hall, denotes the approximate location of these acres, while *Exhibit M-2* contains a copy of the State regulations governing their use. The City and the NJDEP are currently working to clarify Green Acres requirements related to the Site. The City anticipates that it will resolve any remaining Green Acres requirements with the NJDEP prior to the Site being delivered to the Designated Developer(s).

Transportation Infrastructure: Prior Agreement Affecting the Timing of Site Development: On November 8, 2007 the City entered into an agreement whereby construction of casino or casino related facilities on Bader Field cannot commence until:

- i. Applicable Federal, State, County and Municipal/City approvals, licenses and permits have been issued for the necessary Transportation Infrastructure to and from the Site; and
- ii. Funds are available, non-contingent and irrevocable, to design and construct said Transportation Infrastructure.

Further, a Temporary Certificate of Occupancy or Certificate of Occupancy shall not be issued for a casino(s) or casino related facilities on the Site and the agreement shall not terminate until the Transportation Infrastructure is substantially completed and open and available to the General Public.

A copy of this Declaration of Covenants and Restrictions is contained in *Exhibit N*.

V. Location and Current Zoning¹: Bader Field is located in Community Ward 5 in the City of Atlantic City, County of Atlantic and State of New Jersey.

Physically situated on a bay island to the north of Atlantic City’s main barrier island, Absecon Island (which fronts the Atlantic Ocean), the site is bordered directly to the north, east and south by the Great Thoroughfare – a bay system containing an Intracoastal Waterway and is directly adjacent to the Chelsea Heights neighborhood to its Southwest.

Bader Field is located in a RS-C (Resort Commercial District) zoning district and is also governed by a redevelopment plan adopted by the City Council in accordance with the LRHL. The RS-C Resort Commercial District is intended to apply to established resort areas in the City. Its purpose is to provide for the City’s main industry, consisting predominantly of transient and tourist-oriented uses, at such intensity as is justified by the City’s limited land resources, high land values and infrastructure capacity. Residential development is also encouraged for the purpose of preserving and enhancing the family-resort character of the City and integrating the specialized activities of the RS-C with the rest of the community. The Site is further subject to a Declaration of Covenants and Restrictions as described more fully in *Section IV – Background & Current Conditions* of this RFP.

VI. Bader Field Development Guidelines: The Guidelines below establish overarching planning principles, as well as more specific goals and particulars to provide general programmatic, functional and aesthetic direction for the development of the Bader Field. The Guidelines include:

- Establish a world-class destination with a vibrant mix of uses that is sensitive to and fully integrated with the surrounding area and the City.
- Create a signature addition to Atlantic City’s skyline.
- Create high quality, cohesive open space with a range of uses and activities that leverages the site’s waterfront location.
- Develop a streetscape with a continuous and varied pedestrian experience.
- Provide integrated infrastructure improvements including, by way of example, Transportation Infrastructure access, utilities, and public spaces.
- Construct improvements that contribute to a sustainable environment.

Further Development Guidelines are contained in the Bader Field Redevelopment Plan - *Exhibit B-2*.

VII. Infrastructure & Design Requirements:

1. **Utilities:** If not provided in whole or in part by the utility provider, the City, State and/or Federal government (collectively “Public Sector”), cost for the necessary Utilities Infrastructure will be the responsibility of the Designated Developer(s). Please see *Section X – RFP Submission Guidelines* for further information.

¹ This section includes a summary of certain provisions of the Atlantic City Zoning Ordinance and the Bader Field Redevelopment Plan. Respondents should consult the Zoning Ordinance and the Bader Field Redevelopment Plan. *Exhibit B*.

2. **Site Access/Transportation Infrastructure:** If not provided in whole or in part by the Public Sector, cost of the necessary Transportation Infrastructure **will be funded** by the Designated Developer(s). Please see *Section X – RFP Submission Guidelines* for further information, and *Exhibit O* for specific information on Transportation Infrastructure.
3. **Sustainable Design:** Respondents are strongly encouraged to propose designs and construction methods that will meet LEED standards.

VIII. Permits, Licenses, Approvals & Site Conditions:

The Designated Developer(s) will be required, at its sole cost and expense, to comply with all applicable federal, state and local laws and regulations, and to obtain from all appropriate government authorities all licenses (including gaming licenses if applicable), construction and ancillary approvals needed to develop and operate the Site, including but not limited to, all required construction permits and approvals.

For operational licenses, such as Casino Gaming Licenses, each Respondent is required to certify and provide evidence that their entity and its principals anticipate being able to obtain the applicable operational licenses in conformance with all of the requirements of the Casino Control Act, N.J.S.A. 5:12-1 et. seq. (“CCA”) and the CCA’s implementing regulations at N.J.A.C 19:40-1.1 et. seq. A copy of the CCA and the Casino Control Commission’s Regulations can be downloaded from: <http://www.nj.gov/casinos/actreg/>.

The geographic location of Bader Field creates certain unique requirements, characteristics and constraints that each Respondent must address when preparing its Proposal. As a result, Respondents should research and be aware of and prepared to comply with all permitting and approvals processes necessary to develop the Site, including, but not limited to Transportation Infrastructure, utility infrastructure and building improvements. Such considerations should include

- a. Design Review and Approval
- b. Code Compliance
- c. Site Preparation
- d. Geotechnical Considerations

On behalf of the City, consultants working for the CRDA have undertaken preliminary investigations of the Site. Such information is included in *Exhibit O*. Respondents are encouraged to review such information to assist in understanding the Site. **Neither the City, the State or its agencies and independent authorities, the County, or any of their respective consultants take any responsibility for or make any representations concerning the accuracy or completeness of such information. Each Respondent should undertake the investigation and due diligence necessary for it to make an independent assessment of the costs and risks associated with design and construction on Bader Field itself and in the surrounding area.**

Notwithstanding any expressed or implied representation to the contrary, the records of any subsurface investigation, if any, are made available for inspection solely for the convenience of the Respondent.

It is expressly understood and agreed that the City, the State and any of its Subdivisions, Agencies or Authorities (collectively, the “State”), and each of their respective consultants assumes no responsibility whatsoever with respect

to the sufficiency or accuracy of the subsurface investigations, the records thereof, or in the interpretations set forth therein or made by the City in its use thereof other than as used to establish a general understanding of current conditions. There is no warranty or guarantee, either express or implied, that the conditions indicated by such investigations or records thereof are representative of those existing throughout such areas, or any part thereof, or that unanticipated developments may not occur, or that materials other than, or in proportions different from those indicated, may not be encountered.

The availability or use of information described in this subsection is not to be construed in any way as a waiver of the above provisions and the Respondent is cautioned to make such independent investigation and examination as necessary to satisfy the Respondent as to the conditions to be encountered at the Site.

Information derived from such inspection of records of investigations or compilation thereof made by or on behalf of the City or the State and their respective consultants, does not relieve the Respondent from any risk, liability or from properly fulfilling the terms of the RFP.

IX. Environmental:

The Disposition of the Site shall be subject to the completion of all necessary environmental review. In accordance with the terms and conditions of a Right of Entry Agreement to be executed by and between the City and the Designated Developer(s), the Designated Developer(s) shall indemnify and hold the City, the State, CRDA, County or any of their respective consultants harmless from any and all environmental claims, environmental clean-up liabilities, and other actions, causes of action, suits, proceedings, administrative orders, costs, charges, and damages directly or indirectly arising out of or resulting from the Designated Developer(s), its agents, representatives, contractors and subcontractors actions or failure to act while at, on, or in control of the Site.

On behalf of the City, the CRDA caused to be prepared Environmental Information on the Site, copies of which are set forth in *Exhibit P*. **The City, CRDA and their respective consultants make no representations or warranties regarding the presence or absence of hazardous materials or any other environmental conditions that may impact the value of the Site or the future development thereon.**

The City recognizes that the Designated Developer(s) may desire to undertake further environmental investigations before entering into a Disposition Contract and the City will work with the Designated Developer(s) to establish a process to allow for such further investigation before such documents are completed. Such a process will include a requirement that the Designated Developer(s) enter into a Right of Entry Agreement or similar access agreement with the City, whereby among other terms and conditions, the Designated Developer shall be granted access to the Site to perform certain environmental due diligence.

X. RFP Submission Guidelines:

Respondents must complete the following when submitting a response to this RFP:

- Each Respondent must be a Registered Respondent in accordance with *Section III – Registration, Inquiries & Communications* and *Exhibit H*. Proposals will only be accepted from Registered Respondents.
- Each Primary Proposal (defined below) must be accompanied by an Administrative Fee of \$250,000USD in the form of a certified check or bank check or letter of credit made payable to the “City of Atlantic City” for deposit

by the City into the City Council Bader Field Redevelopment Escrow Account for the uses authorized under such escrow account. The Administrative Fee paid by the Designated Developer(s) will be retained by City and the Designated Developer(s) will not be entitled to any credit against the ground rent or any other economic terms in connection with the Site. Acceptance of this Administrative Fee by the City does not create any obligations on the part of City to the Respondent or entitle the Respondent to any rights with respect to the Site, or any other property controlled by the City or any of its units. Unsuccessful bidders will have their Administrative Fee returned.

- Proposal submissions must include the Bader Field RFP Form of Submission as set forth in *Exhibit A*.

ANY PROPOSAL THAT IS NOT SUBMITTED WITH THE COMPLETED FORM OF SUBMISSION WILL BE REJECTED.

The Bader Field Proposal Form of Submission is organized in four sections:

EXECUTIVE SUMMARY

Section A- RESPONDENT PROFILE

Section B- PROJECT PROFILE

Section C- BUSINESS TERMS

- The City will consider alternative development scenarios for the Site that Respondents may wish to propose, provided such alternatives achieve the City's Goals with respect to the development, including maximizing the Best Value. This RFP provides Respondents with the flexibility to submit Proposals for such alternatives ("Alternative Proposals") without the payment of an additional Administrative Fee provided that the entity making the Alternative Proposal is identical to the entity making the Primary Proposal. Such Alternative Proposals are to be submitted as an addendum to the Respondent's Primary Proposal by completing and attaching separate Sections B and C for each Alternative Proposal. **ANY CHANGE IN THE PROPOSING ENTITY SHALL BE DEEMED A DIFFERENT RESPONDENT FOR PURPOSES OF THIS RFP AND SHALL THEREFORE REQUIRE A SEPARATE REGISTRATION, SUBMISSION AND ADMINISTRATIVE FEE.** Alternative Proposals will be rejected if they are not **IN ADDITION** to a Primary Proposal using the forms in Parts One, Two and Three of Section C of the Proposal Submission Form.
- The Proposal should address the financing, design and schedule for all required Infrastructure Improvements.

EXECUTIVE SUMMARY – Requires each Respondent to summarize specific aspects of their Proposal in response to a questionnaire that describes general information about the Respondent and their proposed project. All Executive Summaries for all qualifying Proposals will be made available to the general public via the Bader Field Website within 24 hours of the simultaneous opening of all bids. No financial or business term information associated with the Proposal shall be contained in this summary. The City will redact all such information prior to posting the Executive Summaries on the Bader Field RFP website.

Section A – RESPONDENT PROFILE requires information relating to the

Respondent, including the Respondent's Development Entity, the Respondent's financial condition, the Respondent's design team, the Respondent's consultants, development and legal team, and the Respondent's direct and relevant experience in each aspect of the Project being proposed, including on-Site and off-Site infrastructure, the ability to procure necessary licenses including a gaming license, if applicable, and the Respondent's prior experience in developing such proposed project and attracting its target end user.

Section B – PROJECT PROFILE requires information relating to the Proposal, including a narrative description of the development program, building and site design description, design drawings, site access plan, project completion schedule, and property management details. Also, the Proposal should include a detailed discussion of the Project's target end users, and how the development will attract said end users.

Section C - BUSINESS TERMS requires the following information from the Respondent:

1. **Land Value:** Respondents will be required to submit detailed information relating to the proposed Land Value based on the development's proposed uses.
2. **Real Property Taxes:** Once final disposition of the Site is effectuated, full real property taxes will thereafter be payable to the City on the parcel. Respondents must identify the timing and amount of all such real property taxes, assessments and governmental fees that the project is anticipated to generate for the City, County and State. Respondents should become familiar with New Jersey, Atlantic County and Atlantic City tax assessment policies in order to make appropriate assumptions as to assessed value in estimating the amount of real property and real property taxes for the required cash flow projections.
3. **Real Estate Transfer Taxes:** The Designated Developer(s) shall be responsible to pay the Real Estate Transfer Taxes, if applicable, that are due as a result of the disposition of the Site in accordance with this RFP. Such payment shall be made at closing. Respondents must identify the timing and amount of projected initial real estate transfer taxes.
4. **Sales and Use Tax:** The Designated Developer(s) shall be responsible to pay the Sales and Use Tax, if applicable, due as a result of the disposition and the development of the Site. Respondents must identify the timing and amount of anticipated sales and use taxes during the construction period.
5. **Non-Residential Development Fee:** The Designated Developer(s) will be required to comply with the Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et. seq., if applicable, which requires the developer of a parcel being developed for non-residential uses to pay a "Non-Residential Development Fee" equal to two and a half percent (2.5%) of the equalized value of the land and improvements for certain non-residential construction on an unimproved lot or lots. Pursuant to the Non-Residential Development Fee Act, the Designated Developer must pay this fee, if applicable, prior to the issuance of a certificate of occupancy for any improvements on the Site. A copy of Non-Residential Development Fee Act can be downloaded from: http://www.njleg.state.nj.us/2008/Bills/PL08/46_.PDF
6. **Cash Flow Projection:** Respondents are required to provide a 30-year cash

flow projection including all relevant line items, similar to what a Respondent would submit to a potential investor for an equity investment or a lender for financing.

7. **Financing:** Respondents must demonstrate a viable financial structure for the development, and are required to submit a financing plan for any proposal, including any Supplemental Proposal, if submitted, as part of their response to this RFP. This financing plan should include the following:
 - A substantial up front payment to the City shall be required upon execution of the Disposition Contract.
 - An Annual Capital Draw Schedule and Annual Source & Uses Statement (for both Debt and Equity) showing annual draws based on:
 - An estimate of itemized total development costs
 - The proposed development schedule
 - The amount, source and timing of the Respondent's equity
 - The amount, potential source, timing and terms of the Respondent's financing, including all financing assumptions and minimum tests (debt-service coverage ratio, loan-to-cost/value, etc.) for both construction and permanent financing (if applicable).
 - An itemized annual cash flow projection including gross income, operating expenses and anticipated financing structure.
8. **Additional Potential Revenue:** Respondents must identify sources and describe the terms under which the Respondent and the City will receive and/or share in additional potential revenues from the proposed development.
9. **Capital Event Transaction Fee:** The proposed share of proceeds to be paid to the City from a capital event such as a leasehold sale, including condominium and cooperative sales, partner exchange, transfer, major subletting, syndication, financing or refinancing, excess insurance or condemnation proceeds or any other capital event.
10. **Financial Responsibility:** Under no circumstances shall the City or its units be liable for any of the costs of any Respondent or the Designated Developer(s) in connection with preparing a Proposal in response to this RFP, negotiating with the City or otherwise participating in this RFP process.

Subject to the Selection Process outlined below, the successful Respondent(s) will become the Designated Developer(s) for all or a portion of the Site and the City will deliver a designation letter to the Designated Developer(s) ("Designation Letter(s)"). Within ten (10) days of the date of the Designation Letter(s), the Designated Developer(s) shall be required to enter into a formal Memorandum of Agreement (an "MOA") with the City that will memorialize the principal terms of the agreement between the parties. Under the MOA, the Designated Developer(s) shall be required to pay by wire transfer of immediately available funds to the City, one million dollars (\$1,000,000 USD) ("Expenses Fund"). The Expenses Fund will be deposited by the City into the City Council Bader Field Redevelopment Escrow Account for the uses authorized under such escrow account and will be used to cover costs associated with marketing, due diligence, legal and the negotiation of the Disposition Contract and other reasonable

disposition and closing expenses. The City shall have the right to withdraw amounts from the Expenses Fund necessary to reimburse the City for such expenses. At any time that the amount on deposit in the Expenses Fund shall be less than \$500,000USD, the Designated Developer shall deposit with the City such amount that shall be necessary to restore the amount of the Expenses Fund to not less than \$500,000USD. Upon closing, any amounts remaining in the Expenses Fund after reimbursement of the expenses shall be refunded to the Designated Developer(s). In the event there are multiple Designated Developers, such Expenses Fund shall be reasonably prorated in a manner as determined by the City in its sole judgment.

Following the execution and delivery of an MOA, the City and the Designated Developer(s) shall have up to one-hundred twenty (120) calendar days to negotiate, execute and deliver a Redevelopment Agreement (the “Disposition Contract”). The Disposition Contract is anticipated to cover legal terms of the Disposition, including the Lease and other relevant documents. If such a Disposition Contract is not executed and delivered within such time frame, the City, in addition to any other remedies available to it, shall have the sole and exclusive right to terminate the MOA, to discontinue all further negotiations with the Designated Developer(s) and to commence negotiations with other parties as to the disposition of the Site.

Upon execution and delivery of a Disposition Contract, the Designated Developer(s) will be required to pay by wire transfer of immediately available funds an amount equal to at least ten percent (10%) of the Land Value as a deposit and security for the performance by the Designated Developer(s) of its covenants, agreements and obligations under the Disposition Contract. Such deposited amount shall be deemed earned by City as of the date of the Disposition Contract and shall be non-refundable.

The Respondent acknowledges that if it is the Designated Developer(s) that it will be responsible for the following financial obligations, in addition to other obligations identified elsewhere in this RFP:

- a. The Administrative Fee described above.
- b. The deposits to the Expenses Fund, and any required replenishments thereof, described above.

The Bader Field Designated Developer **will not be** responsible for any of the pre-designation costs and expenses incurred by City staff and their affiliates and subsidiaries except as set forth above.

11. **Exceptions to Certain Material Terms of the Disposition Contract:** The City’s experience with similar dispositions is that the documentation is complicated and the allocation of responsibilities, risk and expense can be contentious, particularly after the initial financial terms are set in place. A description of certain of the material provisions that the City will require in the Disposition Contract is provided in *Exhibit G*. Respondents must identify any of the material provisions identified in *Exhibit G* to which they object or the City will assume that the Respondent is in agreement with such provisions and has based its Proposal on such agreed-to provisions. In order to be able to make the most informed decision possible during the selection process and to bind the Respondent/developer to specific terms and conditions, the City intends to understand and memorialize each Respondent’s position on certain material issues during the selection and pre-final designation process. Respondents must detail with specificity any

exceptions they take to any of the terms set forth in *Exhibit G*.

12. **Economic Impact Analysis:** To better understand how the Respondent's proposal meets the City Goals stated herein, Respondent shall submit a detailed economic impact analysis that quantifies the total "net" economic benefits to be received by the City from the proposed project. Such analysis should address the certainty and timing of payments and explain both the "halo affect" of the project on Atlantic City and the "net" economic impact of the proposed project by taking into account the value of the sum of: (i) upfront and future payments, (ii) the value of any in-kind considerations received by the City and (iii) the value of any other economic benefits received by the City or its citizens that in the sole judgment of the City, are bona fide, legitimate, quantifiable and reasonable benefits, less the economic value of any negative economic impacts on Atlantic City's existing economic base caused by the Respondent's project. Such analysis shall include, but not be limited to, the following:
 - a. All of the above proposed Business Terms for Bader Field, including all transfer, sales and use taxes related to its development;
 - b. All post-completion transfer, sales and uses and gaming taxes and license fees with the timing and amounts of such payments identified by the individual City, County or State entity receiving such payments;
 - c. The specific value of any in-kind consideration or other economic benefits proposed;
 - d. The gross and net value of both direct and indirect jobs created, including headcount and projected compensation levels and income taxes;
 - e. The negative economic impact, if any, on Atlantic City's existing economic base;
 - f. The impact of the proposed development on the demand for City Services including, but not limited to, police, fire, sanitation, public works, etc.; and
 - g. The supporting data necessary to verify the Respondent's projections.

The analysis should be presented by individual line item for each proposed revenue or value source indicating the entity that will receive the payment or value and indicating whether the projected revenues or values are fixed or conditional amounts.

13. **Miscellaneous:** Respondent will be required to respond to certain additional miscellaneous items, including whether Respondent's development team will include meaningful **equal opportunity and workforce development programs for local Atlantic City Businesses and Residents**.

XI. RFP Selection Criteria:

In evaluating the Proposals, the City will consider such criteria consistently across all proposals that, in its sole and absolute discretion, are in the best interests of the City and its residents. The criteria listed below are of particular concern to the City:

1. Quantity, certainty and timing of revenues to the City.
 - Projected Best Value to the City including amount of up front payment to be made to the City.
 - The project economics and financing plan clearly support the project concept.
 - Respondent's financial qualifications (including its proven ability to obtain financing for projects of similar size and/or complexity,

experience with institutional lenders, and evidence of the willingness of such lenders to finance the proposed development), and the amount of equity or personal risk the Respondent proposes for the project, and ability to obtain guaranties and other financial security for completion of necessary infrastructure.

- Respondent's experience and competence in the development, management, marketing and design of projects of a scale, complexity, and quality similar to that required by this RFP, and Respondent's ability to implement its Proposal.
- Respondent's past performance and experience.
- The priority that the Respondent places on the project relative to the Respondent's other projects.

2. Ability to further Atlantic City's reputation as a world-class resort destination.

- Proposal's approach to enhance Atlantic City's reputation and bolster tourism.
- Proposal's approach to improve and enhance Transportation Infrastructure.

3. Quality of the development proposal.

- Respondent's demonstrated understanding of the scope and complexity of the project and the City's and State's goals and objectives.
- Quality of proposed design.
- Relationship and overall benefit to adjacent public spaces, streets, properties and community.
- Respondent's commitment to creating an environmentally sustainable development.
- Experience and qualifications of design professionals and other members of Respondent's development team.

4. Proposed timeframe for commencement and completion of the development.

5. Respondent's previous record of performance in business dealings with any municipal, state, or federal agencies, including the City, County, State and its various units and political subdivisions, and ability to obtain necessary licenses.

6. Quality, creativity, and originality of Respondent's proposed equal opportunity and workforce development programs for local Atlantic City Businesses and Residents. The City is seeking approaches that exceed what is required under existing regulations and deliver measurable results in preparing residents for employment in the development and ongoing operation of Bader Field. In evaluating the quality, creativity, and originality of Respondent's proposed equal opportunity and workforce development programs for local Atlantic City Businesses and Residents, the City shall consider the following factors:

- Number of apprenticeship training opportunities.
- Participation of local small business enterprises in construction of project.
- Bonding assistance for small business enterprises.
- Management apprenticeship opportunities during development of project.
- Provision of job programs during pendency of project and after

project completion.

As stated above, the City reserves the right to apply consistently across all proposals and consider criteria other than the foregoing and to assign to each of the above and to such other criteria as are considered such weight as the City may in its absolute discretion determine (all criteria used by the City being collectively called the "Selection Criteria").

XII. RFP Selection Process:

Based on a review and evaluation of the Proposals the City intends to designate one or more Respondents as the Designated Developer(s) as described more fully below:

1. Proposals will be opened by JLL on the Proposal Due Date and all Executive Summaries for all qualifying Proposals will be made available to the general public via the Bader Field Website within 24 hours of the simultaneous opening of all bids. No financial or business term information associated with the Proposal shall be contained in this summary. The City will redact all such information prior to posting the Executive Summaries on the Bader Field RFP website.
2. JLL to complete a review of the Proposals.
3. JLL to present such review to the City Council Redevelopment Committee (the "Evaluation Committee").
4. Respondents to present their proposals to Evaluation Committee in individual meetings.
5. Evaluation Committee to develop a shortlist of Proposals which best meet the City Goals.
6. Evaluation Committee to conduct individual meetings with the shortlist Respondents to discuss their Proposal(s) after which the Evaluation Committee may request that the Respondent submit one or more modified Proposal(s) based on such discussions.
7. Following completion of such discussions, if the Evaluation Committee determines that there are one or more Proposal(s) that merit further consideration, the Evaluation Committee will present its recommendation(s) to the City Council for its selection of the Designated Developer(s).
8. The City Council shall apply (either simultaneously or separately) to the LFB for both certification of the disposition process and approval of the allocation of proceeds plan for its selected Proposal(s).
9. The LFB shall schedule a hearing to consider the approval of the proposed proceeds allocation plan and certify the disposition process within 45 days of receipt of the application(s).
10. Upon the earlier of the LFB's approval of the proposed proceeds allocation and certification of the disposition process or after 45 days from submission of such application(s) to the LFB, the City Council shall pass an ordinance or take similar action to memorialize the selection of the Designated Developer(s), and the successful Respondent(s) will become the "Designated Developer(s)" for all or a portion of Bader Field for the purposes of negotiating the Disposition Contract. The date upon which the successful Respondent(s) is notified that it is the Designated Developer(s) is referred to in this RFP as the "Developer Selection Date."
11. Following the Developer Selection Date and the execution and delivery of the MOA, the Designated Developer shall have up to one-hundred

twenty (120) calendar days to negotiate, execute and deliver the Disposition Contract. Upon approval of the Disposition Contract by the City Council, the Designated Developer will become the Developer of the Site.

The Evaluation Committee may at any time exclude Proposals that, in the sole and absolute discretion of the Evaluation Committee, fail to demonstrate the necessary qualifications or fail to comply with the requirements of this RFP.

The City and its advisors will review all Proposals for completeness and compliance with the terms and conditions of this RFP, and may, at any stage of the Bader Field RFP process, request from any or all of the Respondents additional material, clarification, confirmation, or modification of any submitted Proposal, including Proposals that are incomplete or nonconforming as submitted. Except at the request or with the consent of the City, which consent shall be in the sole and absolute discretion of the City, Respondents will not be entitled to change their Proposals once submitted.

City, County and State employees, or employees of any related government unit, political subdivision, agency or authority are not eligible to propose or to be included as a Participant with any Respondent. A proposal submitted with any such employee will be disqualified.

In the event City becomes aware of any material misrepresentation with respect to any information supplied by a Respondent, the City shall have the right to reject at any time the proposal of the Respondent, to refuse to negotiate or continue negotiations with the Respondent and to take any other action, including retaining any deposit made by the Respondent, as shall be deemed appropriate by City in its sole discretion. The City reserves the right to request, at any time in the selection process, such additional information or materials as it may deem useful or appropriate to evaluate each Respondent's qualifications and past experience. Submission of a proposal shall constitute the Respondent's permission to the City to make such inquiries concerning the Respondent and members of the Respondent's team, as the City, in its sole discretion, deems useful or appropriate.

The City reserves the right, at any time, in its sole and absolute discretion and without liability, to (a) accept or reject any or all Proposals, (b) withdraw the Bader Field RFP without notice, (c) use the Proposals as a basis for negotiation with one or more Respondents, or (d) waive compliance with and/or change any of the terms of this RFP.

The City reserves the right to negotiate any and all terms of any transaction with the Designated Developer(s). If such negotiations cannot be concluded successfully with the Designated Developer(s), the City may choose to negotiate with other Respondents, to terminate the selection process or to begin a new selection process.

The City will not pay for or refund any costs and expenses incurred by a Respondent in responding to this RFP or by the Designated Developer(s) following selection or designation.

All determinations as to the completeness or compliance of any Proposal, or as to the eligibility or qualification of any Respondent, will be within the sole and absolute discretion of the City.

Respondents will be rejected by the City if such Respondents, or any principal,

partner, officer, director or principal shareholder of the Respondent's firm is determined, in the sole discretion of the City or any other appropriate regulatory agency, to have been convicted of or, pleaded guilty or *nolo contendere* to a felony or crime of moral turpitude, to be an "organized crime figure", to be under indictment or criminal investigation, or to be in default on any debt, contract, or obligation to or with the City, the State or any of their respective affiliates, subsidiaries, agencies, or instrumentalities. The Designated Developer(s) may be required to complete a background questionnaire to verify that it is in full compliance with these requirements.

Communication Restriction: All "Contacts" (defined as "any oral, written or electronic communication with a governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental procurement") during the period commencing upon the date of advertisement of this RFP and ending upon the last action taken by the City to dispose of the Site or any portion thereof (hereinafter referred to as the "Restricted Period") shall be made solely to the Designated Point of Contact. During the Restricted Period, no Contacts, other than the Permitted Contacts described below and Contacts with the Designated Point of Contact, shall be made with any member, officer or employee of the City, its respective units, subdivisions, agencies, authorities, or any other governmental units.

There are certain exceptions to the foregoing limitation on communication. The following types of Contacts are permitted during the Restricted Period:

1. **Proposals:** the submission of written Proposals in response to this RFP.
2. **Complaints:** complaints by a Respondent regarding the failure of the Designated Point of Contact to respond in a timely manner to authorized Respondent Contacts, provided such complaints are made in writing to the City's redevelopment counsel, GluckWalrath LLP, at 428 River View Plaza, Trenton, New Jersey 08611, attention: Bader Field Redevelopment Team. Such written complaints will become a part of the transaction record.
3. **Oral Presentations and Discussions with Respondents:** JLL scheduled presentations by a Respondent to the City, the Evaluation Committee or City Council describing its Proposals and/or scheduled discussion by City with Respondents.
4. **Negotiations:** After a Respondent has been preliminarily designated, communications between that Respondent and the City for the purposes of negotiation.
5. **Review of Award:** Following award to another Respondent, a Respondent's request to the Designated Point of Contact for a review of the award.
6. **Protests and Complaints:** (a) contacts by Respondents in protests, appeals or other review proceedings (including the apparent successful Respondent and his or her representatives) before the City seeking a final administrative determination, or in a subsequent judicial proceeding; or (b) complaints of alleged improper conduct in this transaction to the Federal Bureau of Investigation, the United States Attorney's Office, the New Jersey Attorney General, the New Jersey State Comptroller's Office, the City Solicitor, the Atlantic County Prosecutor or a court of competent jurisdiction, and where such communications and any responses thereto are made in writing and shall be entered in the transaction record pursuant to New Jersey State Law; or (c) complaints of alleged improper conduct in this RFP process.

As stated in *Section III – Registration, Inquiries & Communications*, the City

requires that Respondents disclose information as set forth in the Disclosure Form contained in *Exhibit I* which must be completed by Respondent and submitted with its Proposal. Additionally, each Respondent shall affirm and certify that it and its Development Team Members will comply with the requirements of this section concerning communication restrictions by completing and submitting as part of its Proposal the Affirmation and Certification Form set forth within *Exhibit I*.

EXCEPT AS EXPRESSLY AUTHORIZED BY THE TERMS AND CONDITIONS OF THIS RFP AND APPLICABLE LAW, RESPONDENTS SHALL NOT CONTACT BOARD MEMBERS, OFFICIALS, EMPLOYEES OR CONSULTANTS OF THE CITY OF ATLANTIC CITY OR ANY OF ITS UNITS, OR ANY OTHER GOVERNMENTAL ENTITY REGARDING THIS BADER FIELD RFP, OR SEND PROPOSALS TO ANY OF THEM. FAILURE TO OBSERVE THIS REQUIREMENT MAY RESULT IN THE RESPONDENT'S DISQUALIFICATION FROM CONSIDERATION PURSUANT TO THIS RFP.

XIII. Ownership & Use of Idea Submissions:

The City shall be entitled to retain and use, without compensation to any Respondent to this RFP, all information submitted by any Respondent to the RFP, including but not limited to any concept, element or idea disclosed in or evident from the foregoing or which may be revealed during any communications with Respondents.

Once the Bader Field Designated Developer is selected, the City reserves the right to publish any Proposal or a portion thereof, without permission from or compensation to a Respondent or Designated Developer(s), provided such information does not represent trade secrets clearly identified by Respondent and accepted as such by the City. See *Section XVI Confidentially of Respondents' Information* for additional information.

A Respondent may designate specific information as not subject to disclosure when the Respondent has a good faith legal/factual basis for such assertion. The City reserves the right to make the determination and will advise the Respondent accordingly. The location in the Proposal of any such designation should be clearly stated in a cover letter. **THE CITY WILL NOT HONOR ANY ATTEMPT BY A RESPONDENT EITHER TO DESIGNATE ITS ENTIRE PROPOSAL AS PROPRIETARY, CONFIDENTIAL AND/OR TO CLAIM COPYRIGHT PROTECTION FOR ITS ENTIRE PROPOSAL.**

XIV. Schedule for Completion of RFP Review:

The City will endeavor to proceed with this solicitation so that the Evaluation Committee will make a recommendation for approval of the Designated Developer(s) within six (6) months from the date of issuance of the RFP.

XV. Brokers:

Proposals shall be accepted from principals only. No brokerage fees, finder's fees, commissions, or other compensation will be payable by the City in connection with the selection of the Designated Developer(s) or the disposition of Bader Field. Submission of a Proposal by a Respondent in response to this RFP will constitute an undertaking by the Respondent to hold harmless, indemnify and defend the City and its agent - Jones Lang LaSalle Americas, Inc. 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 Respondent's response to this RFP, selection or no selection thereunder or negotiation and execution (or no execution) of the Disposition Contract.

XVI. Confidentiality of Respondents' Information:

Subsequent to the Award Date, all information submitted by Respondents to this solicitation will be considered public information, except as may be exempted from public disclosure by the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., (“OPRA”) and the common law. In particular, responses to this solicitation will be made available to the public in accordance with the law upon award. If any Respondent submits information that it believes to be a trade secret or otherwise exempt from disclosure under OPRA, it must specifically identify such information and state in writing the reasons why the information should be exempt from disclosure. A copy of OPRA can be downloaded from: <http://www.state.nj.us/grc/act.html>

As stated in *Section X - RFP Submission Guidelines*, the Executive Summaries will be made public within 24 hours of receipt of Proposals.

XVII. General Conditions:

The City makes no representations or warranties whatsoever with respect to this RFP and Bader Field, including, without limitation, representations or warranties as to the accuracy or completeness of any information or assumptions contained in this RFP or otherwise furnished to Respondents; the use or progress of development of Bader Field, or any portion thereof; and site and environmental conditions or the suitability of Bader Field for any specific uses or development. Respondents shall make their own analysis and evaluation of the income potential and profits and expense of Bader Field, and Respondents shall not rely upon any statement or information given to Respondents by the City, the County, the State or any of their respective units, political subdivisions, agencies or authorities, including without limitation, any information contained in this RFP or in any other documents cited in this RFP or made available during this RFP process.

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

The Designated Developer(s) will accept its portion of the Bader Field in “Where Is, As Is” condition on the date of disposition, except as otherwise expressly set forth in the Disposition Contract.

Any construction activities at Bader Field related to this RFP are to be performed at the sole cost and expense of the Designated Developer(s).

The Designated Developer(s) will be required, at its sole cost and expense, to comply with all applicable federal, state, and local laws and regulations, and to obtain from all appropriate government authorities all construction and ancillary permits and approvals for the development of Bader Field including but not limited to, all required building permits and approvals, licenses, certificates of occupancy and environmental approvals and the like.

Acceptance of a Respondent’s Proposal or selection of the Designated Developer(s) pursuant to this RFP will not create any rights on the Respondent’s or Designated Developer’s part, including without limitation rights of enforcement, equity or reimbursement. After execution and delivery of the Disposition Contract the terms thereof will thereafter govern the relationship between the City and the Designated Developer(s). In the event of any variance between the terms of this RFP and the Disposition Contract, the Disposition Contract will govern.

XVIII. Not an Offer:

This RFP does not constitute an offer to transfer ownership of Bader Field or any portion thereof, nor a solicitation of offers to transfer ownership of Bader Field or

any portion thereof. Neither the City, the County, or the State of New Jersey nor any unit or subdivision of any of the foregoing, shall incur any obligation or liability on account of any submission made in connection with this RFP (nor shall any Proposal be deemed accepted) unless and until an agreement setting forth all the terms and conditions of a transaction has been fully negotiated and a written agreement incorporating such terms and conditions has been fully executed and unconditionally delivered by all the parties thereto and all necessary consents and approvals have been obtained including, without limitation, approval of such written agreement by City Council.

XIX. Required Submittals and Disclosures in Accordance with Applicable Law:

A. Small Business Enterprises

It is the policy of the City that Small Business Enterprises (“SBE”) shall have the maximum opportunity to participate in the performance of this engagement. The Respondent shall describe in detail past participation of SBE firms on recently completed construction, operation and management of development projects.

The Disposition Contract will contain specific numerical goals for the utilization of small business enterprises owned by minority group members or women. Respondents are encouraged to strive to achieve meaningful participation of SBE firms during the development of Bader Field.

The Respondent must indicate whether its will include SBE participation in the development of the Site. The Respondent shall describe in detail how SBE firms will be utilized. This should include but is not limited to, the name and address of the SBE firm(s), scope of work to be performed by such firm(s), and contact information for the firm.

**B. Affirmative Action/Equal Employment Opportunity Program
EEO/Non-Discrimination**

In connection with the development of the Site, the Designated Developer(s) will not discriminate against any employee or applicant for employment for work on the development because of race, creed, color, national origin, sex, age, disability or marital status, nor will it discriminate against any person who is qualified and available to perform the work to which the performance relates. The Designated Developer(s) will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Affirmative Action/EEO Submission Requirements

The Designated Developer(s) will be required to submit an EEO Policy Statement and a copy of their current EEO-1 form, detailing the firm's workforce composition within seven (7) calendar days after it receives verbal notification. The City may extend the deadline for submission of an EEO-1 Form or an EEO Policy Statement.

C. Prevailing Wage

New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et. seq.

The New Jersey Prevailing Wage Act requires the payment of minimum rates of pay to laborers, craftsman and apprentices employed on public works projects on property owned by a public agency. Covered workers must receive the appropriate craft prevailing wage rate as determined by the Commissioner of Labor and Workforce Development. Prevailing wage rates are wage rates established for a particular craft or trade in the locality in which the public work is performed. In New Jersey, these rates vary by county and by the type of work

performed.

THIS SOLICITATION MAY BE SUBJECT TO THE NEW JERSEY PREVAILING WAGE ACT. Anyone interested in bidding or engaging in any contract resulting from this RFP may have to register with the Division of Wage and Hour Compliance as required by the Public Works Contractor Registration Act, P.L. 1999, c.238 (PWCRA). The New Jersey Department of Labor and Workforce Development makes official wage determination and debarment list information available on its website at www.nj.gov/labor/lsse/lspubcon.html. By accessing this website official New Jersey Prevailing Wage Rate Determinations may be obtained.

D. Disclosures of Investigation

Disclosure of Investigations/Actions Involving Respondent

The Respondent shall provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five years including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. The Respondent shall use the Disclosure of Investigations and Actions Involving Respondent form attached as *Exhibit Q*.

E. Political Contribution Disclosure & Ownership Disclosure

Requirements of N.J.S.A. 19:44A-20 and N.J.S.A. 52:25-24.2

The Respondent is required to complete the attached Political Contributions Disclosure form *Exhibit R-1* and Ownership Disclosure Form *Exhibit R-2*. Completing these forms is a precondition to entering into a contract with the City.

Additional Disclosure Requirement of P.L. 2005, c. 271

Designated Developer(s) will be required to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (“ELEC”), pursuant to P.L. 2005, c. 271, section 3 if the developer receives contracts in excess of \$50,000USD from a New Jersey public entity in a calendar year. It is the entity’s responsibility to determine if filing is necessary. Failure to so file can result in imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

F. Non-collusion Affidavit

Affidavit of Non-collusion

Each Respondent is required to complete the affidavit attached as *Exhibit S*.

G. Truthfulness Affidavit

Affidavit of Truthfulness

Each Respondent is required to complete the affidavit attached as *Exhibit T*.

EXHIBITS

| | |
|--------------------------------|---|
| <u>EXHIBIT A*</u> : | Form of Submission |
| <u>EXHIBIT B-1</u> : | Atlantic City Casino Resort Zoning Text |
| <u>EXHIBIT B-2</u> : | Bader Field Redevelopment Plan |
| <u>EXHIBIT C</u> : | High Value Asset Law Governing Public Sector Disposition (N.J.S.A. 40A:5-14.2 et. seq.) |
| <u>EXHIBIT D</u> : | Government Units Endorsement Letters |
| <u>EXHIBIT E</u> : | Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et. seq.) |
| <u>EXHIBIT F</u> : | Letter from New Jersey Department of Community Affairs Local Finance Board Authorization Letter fulfilling N.J.S.A. 40A:5-14.2 et. seq. |
| <u>EXHIBIT G*</u> : | Certain Material Terms of the Disposition Contract |
| <u>EXHIBIT H</u> : | Registration and Confidentiality Forms |
| <u>EXHIBIT I</u> : | Third-Party Disclosure Form |
| <u>EXHIBIT J-1</u> : | Map of Existing Private Facilities |
| <u>EXHIBIT J-2.1</u> : | Map of Existing Public Facilities |
| <u>EXHIBIT J-2.2*</u> : | Engineering for Existing Public Facility |
| <u>EXHIBIT K</u> : | Existing Facility Legal Agreements |
| <u>EXHIBIT L*</u> : | Utilities Maps & Summary of Existing Utilities |
| <u>EXHIBIT M-1</u> : | Green Acres Map |
| <u>EXHIBIT M-2</u> : | Green Acres Regulations |
| <u>EXHIBIT N</u> : | Declaration of Covenants and Restrictions |
| <u>EXHIBIT O*</u> : | Site Access Information |
| <u>EXHIBIT P*</u> : | Environmental Information |
| <u>EXHIBIT Q</u> : | Disclosure of Investigations/Actions Involving Respondent |
| <u>EXHIBIT R-1</u> : | Political Disclosure Form (N.J.S.A. 19:44A-20) |
| <u>EXHIBIT R-2</u> : | Ownership Disclosure Form (N.J.S.A. 52:25-24.2) |
| <u>EXHIBIT S</u> : | Affidavit of Non-Collusion |
| <u>EXHIBIT T</u> : | Affidavit of Truthfulness |
| <u>EXHIBIT U</u> : | Market Overview |

* Available to Registered Respondents on the Bader Field Website.