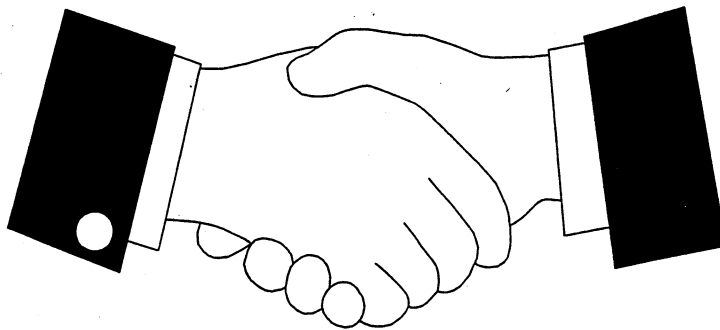


**Maryland-National Capital Park and Planning Commission**

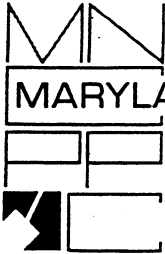
**Public/Private Development Guidelines**



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING  
Guidelines for the Evaluation and Approval of  
Solicited and Unsolicited Offers for Joint-Venture  
Development of Park Property**

**March 8, 1996**





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks, Montgomery County, Maryland  
9500 Brunett Avenue • Silver Spring, Maryland 20901

April 5, 1996

*To Our Friends in the Development Community:*

*Montgomery County is proud of its park system because of the wide variety of facilities that we are able to offer for recreation and leisure activities. However, in recent years, limited public funds have caused us to explore more creative avenues in order to keep pace with our growing population's demands for more active recreational opportunities. Collaborating with developers in the private sector to jointly provide these recreational opportunities is one of the many exciting challenges that has become very beneficial.*

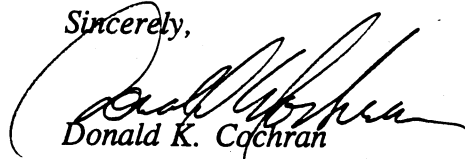
*As we expand on our public/private recreational partnerships, the need for a set of "ground rules" is very important. These guidelines will not only assure your equitable access to development opportunities, but also give the Montgomery County Park Commission a basis for evaluating suitable projects.*

*Therefore, we are pleased to offer "Guidelines for the Evaluation and Approval of Solicited and Unsolicited Offers for Joint-Venture Development of Park Property." This document explains the policies that govern joint partnerships and clearly outlines the four-step process for considering projects.*

*If you are interested in pursuing this type of partnership or if you want further information about these guidelines, please contact Jerry Bush, Administrative Supervisor, at 495-2516.*

*With the assistance of the private sector, our public park system will continue to be responsive to the recreational and leisure needs of the residents of Montgomery County.*

Sincerely,



Donald K. Cochran  
Director of Parks

cc: Jerry Bush  
Terry Brooks  
c:\pubprv.gde

*Yours for life*

MONTGOMERY COUNTY PARKS

# **Maryland-National Capital Park and Planning Commission**

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## **MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING Guidelines for the Evaluation and Approval of Solicited and Unsolicited Offers for Joint-Venture Development of Park Property March 8, 1996**

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### **1.0 General Provisions**

- 1.1 These directives state the policies and basic procedures which govern the evaluation, and selection or rejection, of solicited and unsolicited offers for joint, public/private development of park property presently under the management of Montgomery County Parks ("Department").
- 1.2 The interests of the citizens and residents of Montgomery County are generally best served and protected when the private development of land that is held in trust for them is effected by means of a competitive public procedure. Therefore, all land to be so developed shall normally be offered by means of an openly-announced competitive bid process.
- 1.3 The Department may recommend acceptance of an unsolicited offer, or recommend a waiver of its policy of competitive development-offer bidding in a Commission-initiated project, if both the following conditions exist:
  - (i) A certain unique proposal has particular public policy appeal;  
  
and
  - (ii) The Director of Parks determines, based on objective economic analysis and reasonable development forecasts, that a competitive offering would be unlikely to improve significantly the quality of development on a particular site. In making such a determination, the Director may require some or all of the submittal information required for a solicitation under these guidelines.

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1.4 The process follows the following four general stages:

- (i) Stage One - Project Initiation
- (ii) Stage Two - Review Process
- (iii) Stage Three - Departmental Selection Process
- (iv) Stage Four - Final Selection Process

### **2.0 Stage One - Project Initiation**

2.1 **Park Commission Approval.** Prior to (i) the issuance of a request for proposals or other notification to solicit offers for the joint development of property controlled by the Department; (ii) a recommendation of waiver of the bid process; or (iii) a recommendation of acceptance of an unsolicited offer, the Department shall submit a conceptual summary of the project to the Park Commission ("Commission") for review and approval.

2.11 The Department shall develop a conceptual summary of any joint proposal submitted under these guidelines, and hold a public information hearing on the conceptual summary before bringing it to the Park Commission. During the hearing, the Department shall solicit comments on issues including, but not necessarily limited to, the proposed use and site location.

2.12 Until the Commission approves the conceptual summary, no offering document may be issued and no waiver or unsolicited offer may be approved.

2.2 **Advertisement of Public Bids.** Each offering of park property for development shall be announced publicly, and the notices shall be given as widespread a dissemination as is practical.

2.21 All announcements shall be published one or more times in the local press. Announcements also shall be distributed to all parties on record with the Department who requested information regarding site development offerings (e.g., development corporations), and other community organizations as deemed appropriate by the Department.

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- 2.22 The public announcement of site development availability shall contain the following information:
- (i) The size and location of the parcel being offered for development;
  - (ii) The proposed use(s) for the parcel;
  - (iii) When and where the offering documents may be secured;
  - (iv) The deadline for submission of the proposals; and
  - (v) The cost, if any, of securing the offering documents and supporting materials. The Department may charge a reasonable fee for the information provided in the prospectus or other offering documents.

2.3 **Prospectus Form and Content.** In general, each prospectus shall contain the following sections:

- 2.31 **Section One - Request for Proposals:** Identify site offered for development, the proposed uses for the site and other significant information affecting the development of the site including:
- (i) A summary of the land-use controls, if any, that apply to the site, the maximum permitted development, and a description of the surrounding neighborhood;
  - (ii) The lease rate for the site, if established, or a notation that the lease rate shall be competitive and a description of any parameters on the rate, if any (i.e., a minimum rate, but no maximum rate); and
  - (iii) An outline of the timing of development, monitoring of the development-offer evaluation process, and post-contract or post-lease activities.

2.32 **Section Two - Developer's Kit:** A list of all supporting materials that are to be supplied to a prospective developer. The package should include the following information:

- (i) Detailed specific information regarding the development controls that apply to the site;
- (ii) Official maps showing the dimensions of the site and the location of any specific building restrictions (including easements, set-backs, and similar constraints);
- (iii) Any forms required to be part of the required submission;
- (iv) Any instruction, guidelines, laws and regulations that must be complied with as part of the required submission;
- (v) The Commission's Minority, Female and Disabled (MFD) Policy;
- (vi) Other information which may assist a prospective developer in the preparation of the required submission. The Director may, at his discretion, modify the content of the sections listed above as appropriate, depending upon relevant site and marketing conditions, and legal requirements; and
- (vii) Any additional procedures the Department may establish to allow clarification of the submissions.

2.33 **Section Three - Submittal Requirements:** The prospectus also should include an outline of minimum submittal requirements, including:

- (i) A proposal letter indicating the amount and type of deposit, if required (a form letter shall be included as part of the supporting materials);

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- (ii) A resume setting forth the relevant experience of each member of the development team with respect to the particular type of development being offered, including specific examples of those developments with commencement and completion dates provided (the development team consists of the prospective developer, the architect, the legal representative(s), the financial entity, and other professional advisors on the project);
- (iii) Any forms required by statute or regulation, together with current financial statements of the developer or principals of the developer;
- (iv) A statement of proposed financing, which may include development-cost budget, amount, and sources of debt and equity financing, as well as a projected income and expense analysis for the proposed development for a period of five years subsequent to initial completion;
- (v) A narrative description of the proposed development, describing the magnitude of development, type and location of proposed uses, as well as the approximate area for each proposed use, where appropriate;
- (vi) Statements regarding MFD participation in the planning, ownership, and management of the proposed development;
- (vii) A design concept drawing and other graphic materials in appropriate detail and scale may be required (these materials shall be created in sufficient detail to permit reasonable evaluation of the feasibility, both in terms of design and financial practicality, of the proposed development);
- (viii) Draft lease agreement or site development contract;

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- (ix) Name, address, and telephone number of the specific person or office to which inquiries should be directed; and
- (x) Other information as required by the Director.

2.34 **Section Four - Selection Criteria:** Qualification standards established by the Director such as:

- (i) Experience of the development team;
- (ii) Financial capacity;
- (iii) Development program proposed for the site (including any special development considerations that will be weighed by the Department);
- (iv) Design concept, to the extent applicable, which should set forth the process by which designs will be reviewed and any special design considerations the Department will take into account;
- (v) The Commission's Minority, Female and Disabled (MFD) Policy;
- (vi) A statement that a person shall be disqualified from participating as a member of a development team or from having any ownership interest in a proposed development if that participation would represent a conflict of interest under the laws and regulations of Montgomery County or the State of Maryland;
- (vii) A statement that Developers or members of the development team entity whose names are on any list of disbarred, suspended, or ineligible bidders shall be disqualified from participating in the development; and
- (viii) Other criteria, as appropriate.



**3.0 Stage Two - Review Process**

- 3.1 **Interviews.** The Department may schedule interviews with the most responsive prospective developers submitting a proposal. The interviews shall be conducted by a panel consisting of members of the staff selected by the Director, one of whom shall act as chairperson. Each member of the interview panel shall have the right to ask questions and to request the applicant to supply additional information or clarification that may be needed to complete review of the submission.
- 3.2 **Pre-Hearing Community Review.** The three most responsive proposals shall be circulated for public comment pursuant to the procedures set forth in this section.
- 3.21 The Department shall transmit the three most responsive proposals for review and comment to community, civic and homeowner organizations whose boundaries encompass or adjoin the offered development site. When appropriate, the Department shall also transmit these proposals to other neighboring organizations or individuals which, in the opinion of the Department, represent a broad cross-section of the community.
- 3.22 The Department shall make a reasonable number of copies of the submission documents constituting the proposal available to each community organization. However, if large architectural plans are submitted, the Department shall not be required to reproduce those plans, but should distribute whatever extra copies of the plans that are received as part of the submission.
- 3.23 The community organizations shall have 30 days to provide the Department with written comments and recommendations. For good cause, the Department may shorten or lengthen this time.
- 3.24 The Department may schedule a public hearing to solicit community comment during this 30-day review period.

**4.0 Stage Three - Departmental Selection Process**

4.1 After interviews and public review and comment, the Director shall:

- (i) Reject all proposals;
- (ii) Direct the Department to provide further evaluation of two or more of the proposals, based upon specifically stated concerns;
- (iii) Direct the Department to provide further evaluation of one of the proposals based upon specifically stated concerns ("tentative designation"); or
- (iv) Select a developer and engage in final negotiations ("exclusive designation").

4.2 **Tentative Designation Selection.** A tentative designation selection shall be used in competitive site development offerings where, in the judgment of the Department, proposal submittals require more detailed information.

4.21 The responsibilities of tentatively designated developers may include the following:

- (i) Submission of a development schedule covering activities from tentative designation through execution of the lease agreement or site development contract;
- (ii) Submission of evidence of construction and permanent financing;
- (iii) Submission of additional architectural plans; and/or
- (iv) Other, as required by the Department.

4.22 Upon receipt of the requested information, the Director shall select a developer or reject all proposals. Upon selection of a developer, the

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Director shall proceed under the provisions of an exclusive designation.

4.3 **Exclusive Designation.** An exclusive designation shall be used in competitive site development offerings when the Department determines that because of market conditions, or size or use of the site, selection of a developer should be made on the basis of the developer's qualifications and the substance of the preliminary development proposal.

4.33 Once a developer receives Commission approval of an exclusive designation, the developer shall submit a development proposal pursuant to schedule for the submission of such requirements. Specifically, the Agreement should contain the following provisions:

- (i) The terms and conditions for the submission, and the amount and conditions for the return of the good-faith deposit;
- (ii) A statement ensuring reasonable community participation in the preparation of the development proposal;
- (iii) The timing and nature of design plan submission;
- (iv) A description of the compliance with the MFD program in all phases of the planning, development, and operations of the proposed development;
- (v) A proposed development schedule showing the selected developer's estimates of the timing and sequence of events needed to secure final designation, execution of the Lease Agreement or Site Development Contract, and start and completion of the improvements;
- (vi) A list of documents and materials that will constitute the final proposal submission; and
- (vii) Provisions for the granting of extensions under the Agreement, including, at the discretion of the Department,

reasonable changes as consideration for the Director's granting of any such extension.

4.4 **Modification Prior to Final Selection:** If the Director has authorized a tentative or exclusive designation and prior to the submission of a final proposal, the developer desires to substantially modify any of those elements, the developer shall advise the Director in writing so that the Director will have the opportunity to determine whether to continue the Director's authorization of a tentative or exclusive designation.

4.41 Modification includes, but is not limited to, the following elements of the developer's proposal:

- (i) **Substantial change in land use:** Any change requiring a modification of the Department's approved development plan;
- (ii) **Substantial change in the size or type of improvement:** Any size increase or decrease in excess of ten percent (10%) of the total square footage of the building, or any change that would result in an alteration of the primary use for which the building was designed;
- (iii) **Substantial change in the ownership of the development company:** Any ownership change that would result in the change of a general partner or corporate officer, or more than ten percent (10%) of the ownership interest of limited partners and shareholders;
- (iv) **Substantial change in the membership of the development team:** Any change in the developer, architect, builder, attorney, lender/leasing agent, financial advisor, management consultant, or other major component of the development team previously presented to the Department; or
- (v) Any change in developer's MFD certification or MFD participation.

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4.42 A modification subsequent to execution of a Lease Agreement or Site Development Contract shall be governed by the terms of said agreement or contract.

### **5.0 Stage Four - Final Selection Process**

- 5.1 The Director's designation shall be in writing and shall set forth the findings the Department has made upon which the final designation of the developer is based.
- 5.2 Comments by local community development corporations and other community organizations shall be considered, and adverse comments shall be specifically addressed in the Director's findings.
- 5.3 After the Director makes a final designation, he or she shall schedule a hearing before the Montgomery County Park Commission.
- 5.4 Notification of proposed tentative or exclusive designation by the Department shall be mailed or delivered to the local community development corporations and other community organizations deemed appropriate by the Department.
- 5.5 The notification required under paragraph 5.4 above shall be postmarked no less than ten (10) days prior to the Park Commission hearing required under paragraph 5.3 above.
- 5.6 The Park Commission shall make a conditional award of, reject, or require further negotiation of the terms of the project. Conditional Park Commission award shall be subject to final review and routing of the contract through M-NCPPC's Legal, Finance and Executive Director's office.