



PLANNING AND SUSTAINABILITY • CITY OF NORTHAMPTON

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Request for Proposals for Affordable Housing Development Three Dwelling Units at Burts Pit Road, Northampton Burts Bog Limited Development Released October 9, 2017

Proposals due: **Tuesday November 21, 2017, 1:00 PM** by email to WFeiden@NorthamptonMA.gov
Questions: Wayne Feiden, Northampton Office of Planning & Sustainability, at email above
Summary: Three building lots, with funding for architectural fees, to be developed for three affordable single family homes (with or without accessory dwelling units)
Location: Burts Pit Road, Northampton
Eligible Bidder: Nonprofit affordable housing developers

Property Description

Three lots, each with frontage on Burts Pit Road using a single shared driveway for vehicle access. The property is adjacent to the Burts Bog Greenway, a 121 acre conservation area.

The three lots will be created by dividing up **Lots 5 and 7** on the attached site plans into three lots.

Project Details

1. The City has received development Special Permit/Site Plan Approval and Stormwater Permits for the property. The City intends to apply for new permit to replat Lots 5 and 7 into three lots and convert Lot 9 into open space.
2. The successful bidder will purchase the referenced property for \$1:
 - a. The bidder will grant the City an affordable housing restriction for three units, one one-bedroom, one two-bedroom, and one three-bedroom, affordable and sold to families earning no more than 80% of Area Median Income (80% AMI), for a minimum term of 99 years.
 - b. The bidder must be ready for a February 2018 closing, or whenever all the revised permitting is complete, whichever is later.
3. The successful bidder will need to comply with all requirements of the Massachusetts Department of Housing and Community Development's Local Initiative Program to ensure that the units will be counted on DHCD's Subsidized Housing Inventory for Northampton. The bidder should do their due diligence on DHCD requirements on design, size, sales price, marketing, and tenant selection lottery.
4. The successful bidder will develop a minimum of three single family homes:
 - a. For sale for individuals or families earning no more than 80% AMI.
 - b. The bidder may or may not choose to include accessory units in each home, which are not required to have any affordable housing restrictions.
5. The homes must meet the following performance and program standards:
 - a. The homes must be net zero energy homes, with the addition of not more than 4kw of photovoltaic panels on site or off site (although the development of those panels is not required).
 - b. There shall be insulation with a minimum of R30 walls, R60 attic, and R-20 foundation walls/slap, or under lowest floor.
 - c. The house must meet the energy star, building code, energy stretch code, health code in effect when the house is built.



d. The house must meet the following programmatic requirement

Units	Bedrooms	Min. Size	Max. Size	Bathrooms	Zero Lot Line	Heat	Extras
One	One	500 sq. ft.	800 sq. ft.	One full	Yes	Does not require fossil fuel. Electricity allowed because it can be renewable (e.g., air source heat pump)	No basement and no garage
One	Two	650 sq. ft.	900 sq. ft.	One full	Yes		
One	Three	800 sq. ft.	1,000 sq. ft.	One & 1/2	No		

6. The City is sponsoring a **Just Big Enough-Green Housing for ALL Design Competition**, www.northamptonma.gov/1834/Just-Big-Enough-competition. Assuming that the City receives at least ten competition entries:
 - a. The successful bidder must use an architect (not necessarily the competition winner) from the design competition to design the homes and for key inspection points
 - b. The City will provide \$45,000 in funding to fund the selected architect once the city sells Lot 4, 6, and 8 (which is also owns)
 - c. There is no requirement to use any of the designs from the design competition
7. The successful bidder must be a nonprofit agency whose mission and experience includes affordable housing development.

Disclosures and conditions

1. The special permit and site plan approval and the stormwater permit designs and conditions must be followed at the successful bidders cost. This includes, but is not limited to, replacement of significant trees and drainage improvements.
2. The affordable housing restriction shall be the standard MassDocs affordable housing agreement or the DHCD “Local Initiative Program Affordable Housing Deed Rider for Projects in Which Affordability Restrictions Survive Foreclosure,” modified to meet any requirements of the DHCD site eligibility letter and any DHCD funding. The city will not be subordinate to any other mortgagee or entity except for DHCD.
3. The successful bidder shall execute the attached contract within 30 days of the City’s award.
4. There are no prohibitions on the bidder requesting other City funds (CDBG or CPA) or any other outside grants, but there is no commitment or suggestion of any kind that such funds will be made available.
5. The City reserves the right to reject any and all bids.

Bidder submittal to include, at a minimum, the completed Proposal Submittal Information (below)

1. With a narrative description providing an overview of the proposed project.
2. Rough estimated time schedule for developing the site.
3. Any affordable housing restrictions above the City’s minimum standard.
4. Developer experience with a list of completed same or similar projects.
5. Description of development team.

Selection Criteria

Proposals will be evaluated by Northampton’s Director of Planning & Sustainability, with final approval by its Chief Procurement Officer. In order of importance, proposals will be evaluated based on the following:

1. **Consistency with Proposed Program.** Proposals will be evaluated based on the length of the affordability term, creativity in allowing owner empowerment (while avoiding windfall profit), and consistency with DHCD’s Local Initiative Program. The proposal addresses these goals in the most creative manner, the greatest level of affordability, and the lowest net energy useage will receive priority.

2. **Past Development Experience and Track Record.** Proposals will be evaluated based on the experience with site development, residential construction, and affordable housing. The proposal with a proven track record of successful projects similar to this one will receive priority.
3. **Thoughtfulness of project implementation.** Time-table presented for site preparation, house construction and site improvements will be evaluated. The proposal that presents a comprehensive work plan with clear milestones and a completion strategy, not the shortest amount of time, will receive priority.

Purchase and Sale Agreement

Three Affordable Housing Lots, Burts Pit Road, Florence section, Northampton, MA

Section 1 – Information and Definitions

- 1.2.1 DATE of this Agreement: November ____, 2017
- 1.2 **PREMISES: A parcel of land in Northampton, Massachusetts on Burts Pit Road, containing 0.46 acres, comprised of the land described as “Lot 5,” and “Lot 7” as shown on a survey prepared by Berkshire Design Heritage Surveys last updated May 24, 2017 and entitled “Approval Not Required Plan of Land Located in Northampton, Massachusetts, Prepared for The City of Northampton” and attached hereto, as the survey may be revised to create three lots out of what is currently Lots 5 and 7**
- 1.3 SELLER: City of Northampton, attn.: Wayne Feiden
through its Office of Planning & Sustainability
Address: 210 Main Street, Northampton, MA 01060
Phone: (413) 587-1265
Email: WFeiden@NorthamptonMA.gov
Seller's Attorney: Robert Spencer, Jankowski & Spencer
Address: 6 University Drive, #201, Amherst, MA 01002
- 1.4 BUYER:
Address:
Phone:
Email:
Buyer's Attorney:
- 1.5 CLOSING DATE: February 28, 2018 or anytime date mutually agreed upon.
- 1.6 PLACE: Hampshire County Registry of Deeds, unless some other place should be mutually agreed upon by the parties.
- 1.7 PURCHASE PRICE: The total purchase price for the Premises is One Dollar (\$1.00).
- 1.8 TITLE: Quitclaim Deed(s).
- 1.9 BROKER: City: None
Buyer: None
- 1.10 WARRANTIES
Except as set forth otherwise in this Agreement, the following representations and warranties are made by Seller as of the date of this Agreement and also as of the time of the delivery of the deed: None

- 1.11 REPRESENTATIONS (these are the ASSUMPTIONS of sale and deposits will be refunded if assumptions prove to be incorrect):
- A. The City can provide clear title to the land.
 - B. The City of Northampton obtained the required zoning special permit, site plan approval, wetlands Determination of Applicability, and stormwater permits for two building lots and is going to apply to revise these permits to create a total of three lots.
 - C. The City has completed a Phase I Environmental Site Assessment that did not identify any evidence of hazardous releases.

1.12 BUYER'S ADDITIONAL RESPONSIBILITIES

- A. The buyer will be responsible for removing any soil and limited asphalt piles on the property.
- B. The purchaser will be required to retain stormwater on-site in accordance with the above referenced stormwater permit, as that permit may be revised to create an additional lot
- C. The purchaser will be required to comply with any other permit conditions, including replacing and specimen trees cut either on site and/or off site.
- D. Developing the common driveways (shown on the plans) and common driveway covenant, as the driveways may be revised to create an additional lot.
- E. The buyer hereby covenants not to appeal any permit for single family homes on the other adjacent lots and for a multiuse trail on the adjacent conservation land.

SECTION 2 -- GENERAL PROVISIONS

2.1 Covenant. Seller agrees to sell and Buyer agrees to buy the Premises upon the terms hereinafter set forth.

2.2 Buildings, Structures, Improvements, Fixtures. There are no improvements on the property.

Buyer acknowledges that the Premises is being sold in "as is" condition.

2.3 Title Deed. Said Premises are to be conveyed by a good and sufficient quitclaim deed running to Buyer, or to a nominee designated by Buyer by written notice to Seller at least seven calendar days before the deed is to be delivered as herein provided, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except

- (a) Provisions of existing building and zoning laws;
- (b) Existing rights and obligations in party walls which are not the subject of written agreement;
- (c) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
- (d) Any liens for municipal betterments assessed after the date of this Agreement; and
- (e) Easements, restrictions and reservations of record, if any, provided the same do not interfere with use of and access to the Premises.

2.4 Deed and Plans: Seller shall be responsible for drafting the deed.

2.5 Registered Title. The title to this property is not Registered.

2.6 Possession and Control of Premises. Full possession of said Premises free of all tenants and occupants, except as herein provided, is to be delivered at the time of the delivery of the deed, said Premises to be then (a) in the same condition as they now are, reasonable use and wear thereof excepted, and (b) in compliance with provisions of any instrument referred to in clause 2.3 hereof. Buyer shall be entitled personally to inspect said Premises prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this clause.

2.7 Extension to Perfect Title or Make Premises Conform. If Seller shall be unable to give title or to make conveyance, or to deliver possession of the Premises, all as herein stipulated, or if at the time of the delivery of the deed the Premises do not conform with the provisions hereof, then Seller shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said Premises conform to the provisions hereof, as the case may be, and thereupon the time for performance hereof shall be extended for a period of thirty calendar days.

2.8 Failure to Perfect Title or Make Premises Conform. If at the expiration of the extended time Seller shall have failed so to remove any defects in title, deliver possession, or make the Premises conform, as the case may be, all as herein agreed, or if at any time during the period of this Agreement or any extension thereof, the holder of a mortgage on said Premises shall refuse to permit the insurance proceeds, if any, to be used for such purposes, then all obligations of the parties shall cease and this Agreement shall be void without recourse to the parties hereto, provided however that all deposits made by Buyer under this Agreement shall be refunded to Buyer, which obligation shall survive the termination of this Agreement. The Buyer acknowledges that the city may use eminent domain to clean any defective title and waives any objections to such actions.

2.9 Buyer's Election to Accept Title. Buyer shall have the election, at either the original or any extended time for performance, to accept such title as Seller can deliver to the said Premises in their then condition and to pay therefore the purchase price, without deduction, in which case Seller shall convey such title, except that in the event of such conveyance in accord with the provisions of this clause, if the said Premises shall have been damaged by fire or casualty insured against, then Seller shall, unless Seller has previously restored the Premises to their former condition, either

- (a) pay over or assign to Buyer, on delivery of the deed, all amounts recovered or recoverable on account of such insurance, less any amounts reasonably expended by Seller for any partial restoration, or
- (b) if a holder of a mortgage on said Premises shall not permit the insurance proceeds or a part thereof to be used to restore the said Premises to their former condition or to be so paid over or assigned, give to Buyer a credit against the purchase price, on delivery of the deed, equal to said amounts so recovered or recoverable and retained by the holder of the said mortgage less any amount reasonably expended by Seller for any partial restoration.

2.10 Acceptance of Deed. The acceptance of a deed by Buyer, or its assignee or nominee as the case may be, shall be deemed to be a full performance and discharge of every agreement and

obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.

2.11 Use of Money to Clear Title. To enable Seller to make conveyance as herein provided, Seller may, at the time of delivery of this deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the deed or, for institutional mortgages, are recorded in accordance with customary conveyancing practices.

2.12 Adjustments. Taxes for the then current fiscal year shall be adjusted in accordance with G.L. c. 59, § 72A. If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year.

2.13 Brokers. No brokers are being used for this transaction.

2.14 Inspection Rights. The parties agree that Buyer shall have the right to obtain, at Buyer's expense, an inspection of the premises by a consultant of Buyer's during the bid period. In consideration of right of inspection and rescission, Seller is hereby released from liability relating to defects in the premises actually disclosed or about which Seller had no actual knowledge.

2.15 Water/Sewer, ledge, permitting. Seller makes no representations.

2.16 Hazardous Materials, Lead, Asbestos, and Oil. Seller represents and warrants to Buyer that, to the best of Seller's knowledge, information and belief, (i) there has been no release of any hazardous materials or oil on, from or near the Premises, except as noted above, (as used in this Agreement, the terms "release," "hazardous materials" and "oil" shall have the meaning given to them in M.G.L.c.21E), (ii) there are no underground storage tanks or other subsurface facilities holding petroleum or oil products currently in use or previously abandoned on the Premises and (iii) chlordane has not been used as a pesticide on the Premises. These representations and warranties shall survive the closing.

2.17 Financing Contingency. Seller's obligation to purchase is contingent upon the Seller being able to close on the property under the terms of its Option prior to closing. Seller shall use reasonable efforts to obtain firm commitment of such closing and shall notify the Seller's attorney if Seller is unable close.

2.18 Title to Premises. Notwithstanding anything herein contained, the Premises shall not be considered to be in compliance with the provisions of this Agreement with respect to title unless:

- (a) No building, structure, or right of way, easement or improvement, including any driveway(s), garages, septic systems and wells or property of any kind encroaches upon or under the Premises from other premises;
- (b) Title to the Premises is insurable, for the benefit of Buyer, by a title insurance company acceptable to Buyer, in a fee owner's policy of title insurance at normal premium rates, in the American Land Title Association form currently in use;

- (c) All structures and improvements on the Premises, including any driveway(s) garage(s), septic systems and wells and all means of access to the Premises shall not encroach upon or under any property not within the lot lines of the Premises;
- (d) The Premises abut a public way, or have the benefit of an access and utility easement over a private way leading to a public way, duly laid out or accepted as such by the municipality in which the Premises are located.

2.19 Affidavits, etc. Simultaneously with the delivery of the deed, Seller shall execute and deliver: (a) affidavits and indemnities under oath with respect to parties in possession and mechanic's liens to induce Buyer's title insurance company to issue lender's and owner's policies of title insurance without exception for those matters, and Seller shall indemnify and hold harmless the title insurance company for any losses, costs, or damages sustained as a result of issuing a policy without exceptions covered by such representations; (b) an affidavit, satisfying the requirements of Section 1445 of the Internal Revenue Code and regulations issued thereunder, which states, under penalty of perjury, Seller's United States taxpayer identification number, that Seller is not a foreign person, and Seller's address (the "1445 Affidavit"); (c) Internal Revenue Service Form W-8 or Form W-9, as applicable, with Seller's tax identification number, and an affidavit furnishing the information required for the filing of Form 1099S with the Internal Revenue Services and stating Seller is not subject to back-up withholding; and (d) such additional and further instruments and documents as may be consistent with this Agreement and customarily and reasonably required by Buyer and/or the Buyer's title insurance company to complete the transactions described in this Agreement.

2.20 Title Standards. Any matter or practice arising under or relating to this Agreement which is the subject of a title standard or a practice standard of the Real Estate Bar Association at the time for delivery of the deed shall be covered by said title standard or practice standard to the extent applicable.

2.21 Deposit. A ten percent deposit shall be made by the Buyer as part of its bid submittal and an additional 10% deposit within 30 days of the City's acceptance of the Buyer's bid. The Deposit shall be held by the City or its attorney. The Deposit shall be duly accounted for at the time of performance of this agreement or otherwise by the agreement of the parties or by order of a court of competent jurisdiction.

2.22 Buyer's Breach. If Buyer shall unjustifiably fail to fulfill Buyer's part of this Agreement, all deposits made hereunder, if any, shall be forfeited and become the property of Seller as liquidated damages, which shall constitute Seller's sole and exclusive remedy at law or in equity for Buyer's default under this Agreement.

2.23 Notices. Any notice required or permitted to be given under this Agreement shall be in writing and signed by the party or the party's attorney or agent and shall be deemed to have been given: (a) when delivered by hand, or (b) when sent by Federal Express or other similar courier service, or (c) when mailed by certified mail, return receipt requested, or (d) upon electronically confirmed receipt of facsimile delivery (provided that such facsimile delivery is promptly

followed by one of the other permitted forms of notice contained herein), to the party with a copy to the party's attorney at the addresses set forth in Section 1.

2.24 Closing. The deed and other documents required by this Agreement are to be delivered and the Purchase Price paid at the Date and Time of Closing and at the Place of Closing. All documents and funds are to be delivered in escrow subject to prompt rundown of title and recording, which term shall include registration in the case of registered land. Seller's proceeds may be in the form of an IOLTA check, and the check shall be held in escrow by Seller's attorney who shall release the check to Seller only following the recording of the deed.

2.25 Condition of Premises at Closing. Seller agrees to deliver the Premises at the time of delivery of Seller's deed in a condition substantially similar to its condition at the time of the signing of this Agreement.

2.26 Casualty. Notwithstanding anything herein to the contrary, in the event of damage to or destruction of the Premises by fire, vandalism or other casualty, then at Buyer's sole option, this Agreement may be terminated, whereupon all deposits paid by Buyer hereunder shall be promptly returned to Buyer.

2.27 Liability of Trustee, Shareholder, Fiduciary, etc. If Seller or Buyer executes this Agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither Seller or Buyer so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

2.28 Extensions. Buyer and Seller hereby authorize their respective attorneys (as the case may be) to execute on their behalf any extensions to the time for performance and any change of location and/or time for delivery of the deed. Buyer and Seller shall be able to rely upon the signature of said attorneys as binding unless they have actual knowledge before the execution or other consent to such extensions, that either party has disclaimed the authority granted herein to bind them. For purposes of this Agreement, facsimile signatures shall be construed as original.

2.29 Construction of Agreement. This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both Seller and Buyer. If two or more persons are named herein as Buyer their obligations hereunder shall be joint and several.

2.30 Incorporation; Conflict. All terms of the Request for Proposals and the Buyer's Proposal are hereby made a part of this Agreement and are incorporated herein by reference. In the event of conflicting or inconsistent provisions, the terms of the Request for Proposals and the Buyer's Proposal shall control.

2.31 Captions. The captions and headings throughout this Agreement are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any

provisions of, or the scope or intent of this Agreement, nor in any way affect this Agreement, and shall have no legal effect.

In Witness whereof, the parties hereto sign this Agreement under seal as of this ____th day of _____, 2017.

Buyer:

Attached evidence that the signatory is authorized to sign for the corporation

Seller:

Mayor David J. Narkiewicz

Wayne Feiden, Director of Planning & Sustainability

Joseph M. Cook, Chief Procurement Officer

Joyce Karpinski, Auditor