



SCHOOL OF  
GOVERNMENT  
Development  
Finance Initiative



# Solicitation for Development Partner Proposals

Railroad Corner Mixed Use Development  
City of Orangeburg, South Carolina



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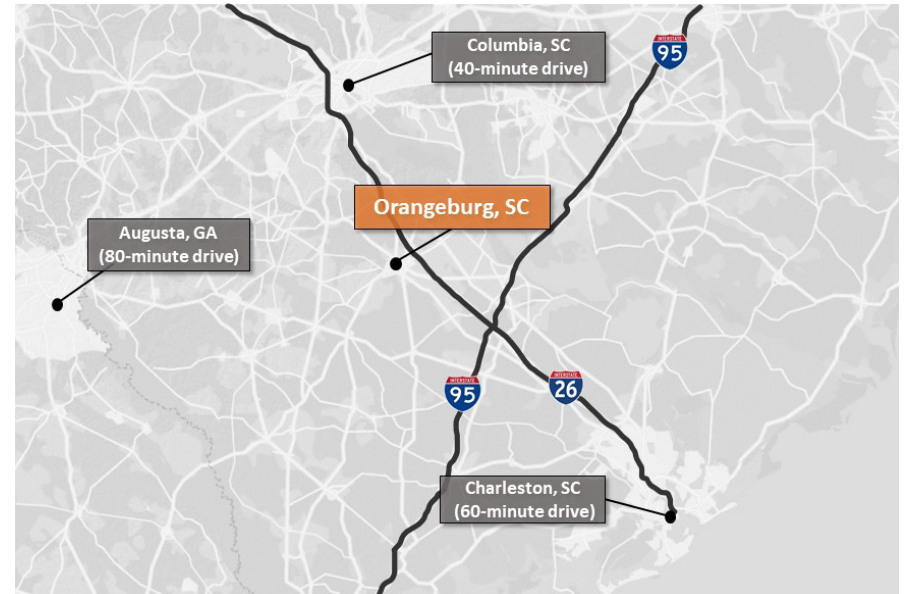
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# Executive Summary

The City of Orangeburg, South Carolina ("The City") is pleased to release this Solicitation for Development Partner Proposals ("SDP") for the redevelopment of the Railroad Corner in downtown Orangeburg. The City seeks a qualified development partner or partners to redevelop the City-owned sites into a mix of residential, ground-floor retail and a cultural space. Responses to the solicitation are due no later than June 10, 2022.

This document is an invitation for interested development teams to present development concepts for review and consideration by the City of Orangeburg. The Development Finance Initiative ("DFI") will help development teams understand and respond to the City's requirements for the redevelopment of the Railroad Corner. This process will culminate in the selection of a development partner or partners and the negotiation of one or more conveyance and development agreements.

Prior to releasing this SDP, DFI and the City spent over a year completing significant pre-development and community engagement activities on the project to ensure the project and the proposed public-private partnerships are supported by the community, endorsed by the City Council, and are financially feasible for the development partner(s).



## ESTIMATED DEVELOPMENT TIMELINE

June 10, 2022	●	Development partner proposals due
Q3 2022	●	Town selects development partner(s)
Q4 2022	●	Town and development partner(s) execute a Memorandum of Understanding (MOU)
Q2 2023	●	Town and development partner(s) execute a development agreement
Q3 2023	●	Projected Groundbreaking



# The Opportunity

The City is seeking private development partner(s) to undertake a catalytic mixed-use project at the historic Railroad Corner, a 1.5-acre site, consisting of 12 City-owned parcels. The City would like to see the site redeveloped into a mixed-use destination that honors the Civil Rights history of the area and provides a transformative place to live and play in downtown Orangeburg. The City requests proposals from qualified development teams to include a design of ground floor retail, upper story residential units, and a cultural space for a potential South Carolina Civil Rights Museum.

Situated along the Russell Street thoroughfare, the Railroad Corner is a primary investment area and key focus of City, county, and state leadership due to its highly visible location, proximity to 5,000 students through two neighboring universities – Claflin University and South Carolina State University – and proximity to downtown Orangeburg. This project has received immense support from the community; City, county, and state elected officials; and both universities, who find this project in complete alignment with their goals to strengthen the connections between their campuses and downtown Orangeburg.

## HISTORY OF RAILROAD CORNER

In the early to mid-20<sup>th</sup> century, the Railroad Corner was a thriving hub for African American businesses. Of prominence were the State Theater and the College Soda Shop, both of which served as community anchors. In 1968, the Railroad Corner became the physical midway point between the sites tied to the Orangeburg Massacre. On Feb. 8, 1968, four years after the passage of the Civil Rights Act, about 200 Claflin and SCSU students gathered on the SCSU campus (east of the Railroad Corner) to protest racial segregation at the All-Stars Bowling Alley (west of the Railroad Corner), where several students had been denied entry three days earlier. State patrolmen opened fire on the unarmed demonstrators, killing 3 men and wounding 28 individuals. While it is one of the most violent episodes of the Civil Rights era, the Orangeburg Massacre remains largely underreported and underrecognized.



Former College Soda Shop



State Theater and adjacent buildings, Boulevard Street

The Orangeburg community desires that any development on the Railroad Corner honor the history of this site.

#### STAKEHOLDER SUPPORT

The Railroad Corner redevelopment is an important project not only for the City of Orangeburg, but also for stakeholders across the State of South Carolina and alumni of Claflin University and South Carolina State University.

**Universities** – Both universities have expressed support for the redevelopment of the Railroad Corner, and have provided the City with a Letter of Support stating their willingness to partner with the future developer or developers for the residential component of the project for student housing. Students have been engaged throughout the process and have expressed enthusiastic support for a mixed-use destination adjacent to their campuses.

**State** – The City recently received a \$350,000 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant to study the feasibility of at-grade intersection improvements and a pedestrian bridge over Magnolia Street to better-connect the Railroad Corner redevelopment to the campuses of Claflin University and SCSU. The City is currently working with the SCDOT to identify an engineering firm to conduct the study.

**Civil Rights** - The City has received a letter of interest from Cecil Williams, a locally and nationally recognized Civil Rights photographer, to relocate his South Carolina Civil Rights museum collection to the Railroad Corner development. The Museum is anticipated to serve as an anchor tenant for this project.



Claflin University Center for Social Justice, Summer 2021



South Carolina State University Marching Band



## DFI'S Role

DFI provides specialized finance and development expertise to local governments to assist them in attracting private investment for transformative projects. DFI has been engaged in more than 200 projects in communities across North Carolina, South Carolina, and Virginia, and those projects have attracted over \$1 billion of private investment.

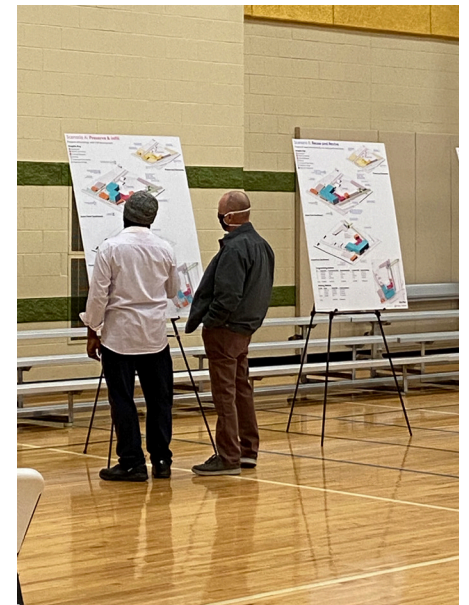
For this project, DFI performed detailed pre-development analysis to arrive at a recommended development plan. The analysis included:

- **Market Assessment:** assessing the supply and demand for potential uses, including market rate and affordable residential, retail and office. A detailed summary is available upon request.
- **Site Assessment:** studying the physical constraints of the site and working with a design team to design a program that maximized the development potential of the site.
- **Public Engagement:** identifying guiding public interests for development of the Railroad Corner and engaging the community in evaluating possible development plans through a stakeholder engagement process. This process included six public input sessions and two online surveys, which generated 450+ responses. The memos summarizing the public feedback received regarding public interests and the leading development plans are available upon request.
- **Financial Feasibility:** projecting the development costs and cash flows to ensure viability of project for private investors.

- **Public Investment:** identifying the potential avenues by which the public sector can participate to enhance the attractiveness of the development opportunity.

The findings of this predevelopment work are the basis for this solicitation. Detailed findings are available upon request.

DFI's predevelopment work thus far will benefit the private developer(s) selected by City Council by significantly reducing the time, effort, expense, and overall risk required to move the project through the City's public planning process. The City has therefore agreed in a contract fully executed on December 8, 2020, and recorded with the Orangeburg County Register of Deeds, that the developer(s) selected following the Solicitation for Development Partners pays a fee equal to 1% of the total development cost to DFI as part of any development services agreement related to the development of the project site. The terms of the fee are further described in Appendix A of this Solicitation of Development Partners (SDP).



November 2021 public  
engagement session

## Guiding Public Interests

Through significant community engagement, DFI, City staff and City Council identified the following project-specific public interests to guide the programming of the site's development. The Council previously endorsed these interests, and they should be noted and incorporated within any submitted proposal. The City and DFI identified that the Railroad Corner redevelopment should:

- Provide a catalytic mixed-use development that connects downtown to the universities and serve as a gateway to downtown;
- Respect the historical significance and context of the site and integrate this history into the development;
- Consider options for preserving the State Theater building;
- Incorporate engaging street uses attractive for students and the community;
- Enhance walkability to increase pedestrian activity from the universities to the Railroad Corner and along Russell St; and
- Optimize public investment and maximize private investment.



November 2021 public engagement session

# Market Overview

Located in the heart of South Carolina (the 10th fastest growing state in the nation), Orangeburg lies almost equidistant to Columbia, SC, the state capital, and Charleston, SC. Driven by employment gains in education, healthcare and hospitality, the Columbia metropolitan statistical area (MSA) has grown by more than 7% in the last 10 years. Charleston's demographic growth has exceeded that of Columbia. With a 20% increase in its population from 2010 to 2020, the Charleston MSA, a hub for the technology, healthcare, and hospitality industries, is one of the fastest growing metros in the US. Both Columbia and Charleston are projected to continue attracting businesses and individuals in the coming years. Conveniently located between the two large metros, Orangeburg is poised to capture some of this future population growth, spilling over from these two cities as residents search for more affordable housing options.

Situated along the Edisto River and home to the famed Edisto Memorial Gardens, Orangeburg – also known as the Garden City – is the Orangeburg County seat and a regional center for recreational activities and civic engagement. In 2005, Orangeburg County won the All-America City Award, which is presented by the National Civic League to honor communities in which the public and private sectors successfully work together toward addressing critical issues. The Railroad Corner project is a testament to the civic character of Orangeburg, and the redevelopment of this site will advance the broader City and county effort to revive downtown Orangeburg into a vibrant commercial core. In addition to the Railroad Corner redevelopment, the City of Orangeburg is working on a new City Hall project and several infrastructure investments around the City.

## MULTIFAMILY

The Orangeburg market shows little demand for new multifamily housing based on historic market trends. However, aging housing stock and the site's proximity

to two universities suggest an opportunity for new multifamily product in Orangeburg. 44 percent of housing units in Orangeburg were built prior to 1970, and 47 percent were built between 1970 to 2000. The most recent multifamily product, Summit Apartments, was built in 2013 and added 83 units. With no new multifamily built since 2013, the lack of new housing in Orangeburg has resulted in limited housing options for Orangeburg employees. 90 percent of people employed in Orangeburg live outside of the City, and university stakeholders and local officials have affirmed the significant need for both student and market rate housing.

## RETAIL

The Orangeburg retail trade area has experienced few retail deliveries and modest rent growth since 2010. Retail in downtown Orangeburg has also historically contended with high levels of vacancy and low rents; however, recent revitalization efforts from the Downtown Orangeburg Revitalization Association (DORA), the City, and Claflin University, have helped to steadily increase foot traffic for local businesses in downtown.

Just a few blocks from downtown, the Railroad Corner is situated at a prime retail junction. 15,000 – 27,000 cars pass the intersection of Hwy 301 and Hwy 601 (Magnolia Street) daily, located just one block south of the site (SCDOT Traffic Counts, 2019). DFI has already received inquiries from several local business owners expressing interest in relocating their business to the site once it is redeveloped. Additionally, the City has received a letter of interest for a potential South Carolina Civil Rights Museum to be located on the site. Together with the residential units, the museum will serve as a demand driver for the retail component of the development.



## UNIVERSITY IMPACT

Combined, Claflin University and South Carolina State University serve roughly 5,000 students, employ 2,400 faculty and staff, and provide \$225 million in regional economic impact (Source: UNCF, HBCU Economic Impact Report, 2014). A few blocks west from the Railroad Corner site along Russell Street, Claflin University opened its Center for Social Justice in the summer of 2021, and the university is planning to open a new student and community center to the east of the Railroad Corner in 2023. The new facility will house the campus bookstore, a food court, and a community auditorium, among other uses.

DFI has received letters of support from both universities for the Railroad Corner project for the inclusion of student housing in partnership with the university(s). The student housing component of this program will be critical in creating a lively hub for student activity that can support new retail on this site. Additionally, both universities, the City, the county, and the state are supportive of a pedestrian overpass that would span Magnolia Street and the Norfolk Southern rail line to help students safely connect to the Railroad Corner development and downtown Orangeburg. The City received grant funding in Q4 2021 from the SCDOT to conduct the first phase of feasibility studies for the overpass and other traffic improvements at the Railroad Corner.

## ORANGEBURG COUNTY LIBRARY

The Railroad Corner lies on the Russell Street commercial corridor, which has enjoyed recent public and private investments. A new \$9.2 million, 50,000 SF Orangeburg County Library facility sits adjacent to the Railroad Corner site and opened in the fall of 2021. The library, which also includes an amphitheater and conference center, will serve as a cultural draw and a meeting space for the entire County, which is home to nearly 90,000 residents.



New Orangeburg County Library

# Development Program

DFI worked with Perkins & Will and City staff to create conceptual mixed-use site plans that combine residential development and street-level commercial spaces. DFI, City staff, and Perkins & Will worked together to identify a feasible plan within the regulatory and physical constraints of the site while respecting the public interests.

The site is in the B-1 zoning district, and the City is in the process of updating its zoning ordinance to accommodate higher residential density within this zoning designation. This update is anticipated to be completed in Q2 2022. The City is prepared to work with a developer or developers to increase the vibrancy of this crucial corridor through development that meets both public and private sector interests.

## ADDITIONAL CONSIDERATIONS

In addition to the desired development program, the City requires developers to incorporate the following design elements:

- DFI and City staff expect development partner(s) to seek and employ available tax credits (state and federal) and other assistance for this development.
- Preference will be given to development programs that preserve the State Theater building. However, if it is determined that the building is not structurally sound for preservation, the City requires that some elements of the building be incorporated into the new construction.
- The City desires proposals to discuss plans or ideas that activate the proposed retail along Russell and Boulevard Streets with tenants that would be attractive to both University students and the broader community. With the City's vision of activating this important corner, a potential strategy could

include recruitment of food and beverage businesses.

- Responses should incorporate the public pedestrian overpass and explain how the development team intends to integrate the overpass into their development. The proposed pedestrian bridge will connect the Railroad Corner redevelopment to the two HBCU campuses, and stakeholders at all levels—City, county, state, and universities—see the pedestrian bridge as an important component of this project. The conceptual site plan includes a suggested location for the overpass, informed by conversations with various stakeholders.

DFI tested the financial feasibility of the plan and integrated public participation to secure public interests as necessary.

The development program and conceptual site plan provided in this solicitation are not the final designs or massings. Developers are encouraged to develop their own approach but should use the program and plan approved by the Orangeburg City Council on January 18, 2022, as a frame of reference for the type and scale of development that the City desires. Developers are not required to work with Perkins & Will.

## Program Mix & Rents

DFI's analysis has identified a potential program mix and rental rates; however, this information is not a requirement for development responses, but should be viewed solely as one feasible approach that could be used. The project site spans a full block along Russell Street, bounded by Boulevard Street and Treadwell Street. The mixed-use program also includes the two parcels on Treadwell Street to the west.



USE	GROSS SF
Retail	14,300 SF
Apartments: Student Housing	51,200 SF
Cultural and Flex Space	7,350 SF
Total Gross Building	72,900 SF
Parking	132 spaces

PROJECTED RENTS			
	Units	Unit Size (avg SF)	Avg. Rent
3-BR Student Housing	32 units (96 beds)	1,200	\$2.65/SF/Mo.
Retail	TBD	14,300	\$12.00/SF/Yr.
Cultural	--	6,700	\$15.00/SF/Yr.



## Projected Costs and Returns

Based on current market conditions, DFI estimates total development costs of this project at \$18-20 million, including parking costs. Full details and assumptions of DFI's modeling can be shared upon request.

PROJECTED PRIVATE INVESTMENTS		
Acquisition	6%	\$900,000
Hard Costs	81%	\$13,100,000
Soft Costs	13%	\$2,200,000
Developer's Fee - incl. in soft costs		\$600,000
Total Development Costs	100%	\$16,200,000

ESTIMATED PARKING AND INFRASTRUCTURE INVESTMENTS	
Parking	\$1,400,000
Infrastructure	\$950,000
Total Costs	\$2,350,000

DFI has made the following key financial assumptions for the Railroad Corner redevelopment:

- Student housing was modeled as the residential component of the project.

- Developer will utilize the following federal and state tax credit programs:
  - New Market Tax Credits (NMTC) in the form of tax credit equity
  - Federal and State Historic Tax Credits
  - Abandoned Building Tax Credits (ABTCs). A South Carolina tax credit program, ABTCs promote the rehabilitation of empty and underutilized buildings. The Railroad Corner redevelopment is split into five distinct commercial units that can independently generate these tax credits. Please see [here](#) for additional information.
- An African American Civil Rights Grant of \$500,000 was modeled to cover a portion of the cost for the renovation of the State Theater. DFI cannot guarantee that the project will be a recipient of these funds. Projected returns will be impacted if these funds are not received.
- The cost estimates provided do not include costs for the pedestrian overpass. DFI assumed that the City would attain state and federal funding for the completion of the overpass.

### PROJECTED RETURNS

Using the above program and rent numbers, DFI has modeled the project to determine overall financial feasibility and returns for the Developer and Equity Investor(s). The Railroad Corner site is in an Opportunity Zone (OZ); therefore, the target returns for this project were adjusted to reflect typical return expectations for OZ projects.

DFI estimates that the developer of this project can achieve market rate returns at or above a 16% IRR and a 9% stabilized CoC return. Detailed versions of DFI's financial assumptions and models can be requested by emailing Sonyia Turner, [turner@sog.unc.edu](mailto:turner@sog.unc.edu)

# Potential Public-Private Partnership

The City and universities are committed to participating financially to secure their public interests in this development.

## STUDENT HOUSING

Claflin University is a private institution and wishes to be a full partner in the residential component of the program. The City and the university expect the developer to propose an arrangement that meets the interests of all involved parties.

## CITY PARTICIPATION

The City is prepared to participate financially to support the viability of the Railroad Corner redevelopment. Such considerations include:

- Public parking that can support the private development aspects through a lease
- Site infrastructure improvements including water, sewer, and streetscape improvements
- SC Bailey Bill designation – Per ordinance Number 2018-5 ([Reference Document](#))

## PEDESTRIAN OVERPASS

The City is prepared to seek state and federal funding for the completion of the overpass. The selected development team would be expected to work in partnership with the City, county, universities, SCDOT and Norfolk Southern, which owns and operates the railroad tracks over which the overpass will span, on the planning and implementation of the overpass.



Orangeburg City Hall

## Evaluation Criteria & Selection Process

An evaluation of development firms responding to this solicitation will be undertaken to identify a potential Development Partner and plan that is viable, will best serve public interests, and can be completed in a reasonable time frame. DFI will collect and analyze responses, contact references, and coordinate interviews as necessary.

Responses will be evaluated by the following criteria:

- Qualifications and experience of the development team, with preference given for experience with the type of development and financial structuring proposed in respondent's plan for the site.
- Level of integration of guiding public interests, to include financial benefit to the City.
- Quality and success of prior development projects and public-private partnerships.
- Demonstrated ability to execute projects of similar scale and complexity.
- References from previous local government partners, if any.
- List of active development projects and demonstration of confidence in the project.
- Ability to execute the project within the City's proposed timeline.
- Ability to integrate the additional considerations previously identified in the 'Development Program' section of this document.

After a review of submitted proposals, clarifications may be requested. Unless requested by DFI, no additional information may be submitted by development teams after the June 10, 2022, deadline. Following Council's selection, the City will commence the negotiation of a formal Memorandum of Understanding (MOU) and then appropriate binding agreements.



## Submission Process

Development Partner proposals are due at 5:00 p.m. EDT on June 10, 2022. Proposals should be submitted electronically in PDF format, and financials submitted in excel format, to Sonyia Turner at [turner@sog.unc.edu](mailto:turner@sog.unc.edu) and Sidney Evering at [sidney.evering@orangeburg.sc.us](mailto:sidney.evering@orangeburg.sc.us).

Proposals must be prepared in conformance with the guidelines described under “Submission Requirements.” The e-mail subject must be “Development Partner Proposal: Railroad Corner Redevelopment.” Proposals received after the deadline will not be considered.

All responses are subject to public disclosure under relevant state law. DFI recognizes that respondents must submit financial information that they may deem confidential and proprietary to comply with the requirements of this solicitation. To the extent permissible by law, DFI agrees to keep confidential any confidential proprietary information included in a response, provided that (1) the respondent identifies the confidential proprietary portions of the response, (2) the respondent identifies as confidential and proprietary only those portions of the submittal that are confidential and proprietary, and (3) the respondent states why protection is necessary. Respondents shall not designate their entire response as confidential and proprietary, nor shall they so designate information that is already public.

Any information that the respondent would like to remain confidential should be e-mailed under separate cover to [turner@sog.unc.edu](mailto:turner@sog.unc.edu). The e-mail subject must be “PROTECTED: Development Partner Proposal: Railroad Corner Redevelopment.”

For information concerning the procedure for responding to this Solicitation for Development Partners or clarifications of the terms, conditions, and requirements of this SDP, please e-mail Sonyia Turner, Project Manager, DFI, at [turner@sog.unc.edu](mailto:turner@sog.unc.edu) and Sidney Evering, City Administrator, City of Orangeburg, at [sidney.evering@orangeburg.sc.us](mailto:sidney.evering@orangeburg.sc.us).

# Submission Requirements

## PROPOSAL

1. Development Plan
  - a. Number of Residential units; Average size of units; Mix of units; Expected rents
  - b. Amount of Commercial SF; Expected rents
  - c. Size of Cultural SF; Expected rent(s)
  - d. Expected residential amenities
  - e. Estimate of parking spaces needed (separate commercial and residential estimates)
  - f. Timing of Phases, if applicable
2. Preliminary Site Plan
  - a. Diagram of Uses
  - b. Building Massing
  - c. Proposed access for multiple modes of transportation, including the pedestrian overpass.
  - d. State Theater/ Cultural Space integration
3. Development and Financing Assumptions – Provide in excel format:
  - a. Sources and Uses
  - b. If public participation is anticipated, propose the public investment structure (e.g., cost of public facilities to be provided) and provide financial analysis to demonstrate why such participation is necessary.
  - c. Required investor return hurdle rate (submit as confidential)
  - d. If interested in developing the structured parking, propose a financing structure and development fee, and explain why the proposed arrangement would benefit the City as compared to the City constructing its parking independently.
  - e. Acquisition Price – Propose price per acre

- 4. Earnest Money Deposit – Propose amount and terms
- 5. Timeline – Propose:
  - a. Indicate whether proposed timeline under “Development Timeline” is feasible. If other, include proposed timing here. Indicate development team’s availability to undertake the project and adhere to the timeline.

## QUALIFICATIONS

- 1. Letter of Introduction
  - a. Include a summary of the respondent’s qualifications, experience, and reasons for interest in this opportunity. Special attention should be given to a clear statement outlining how this proposal aligns with the guiding public interests. The letter must be signed by a principal or authorized officer of the entity.
- 2. Development Team
  - a. Identification of partner firms and roles, including co-developers, architects/designers, and potential general contractor or subcontractors.
  - b. Overview of each firm on the team, including brief history of firm, licensure, past experience working with the developer, location of South Carolina office if any, and relationship of the firm’s parent company with the office responsible for this project, if applicable.
  - c. Identification and resumes of lead staff (principals and project managers) who will be responsible for negotiating a development agreement with the Town and completing the remainder of the preconstruction approval process.
- 3. Minority and Women Business Enterprise (MWBE) Goals (Per City of Orangeburg Procurement Ordinance)
  - a. If available, lead developer’s MWBE policy
  - b. If available, historical MWBE performance
- 4. Experiences and References
  - a. List of three current and completed projects (preferably in the last five years) relevant to proposed plans. Include the following information:
    - i. Name, location, and completion date of project
    - ii. Development team members, including architects/designers and general contractors



- iii. Scope and scale of development program
- iv. Photos/illustrations of completed project
- v. Total development budget by use
- vi. Capital stack, including governmental sources
- vii. Financing partners
- viii. List of current commercial tenants (indicating whether local and/or small business), if available
- a. Most recent example, if any, of the development team's experience executing public-private partnerships.
  - i. Include all information requested above in section 4a.
  - ii. Contact information for a representative of the primary public agency partner in the project
- b. List of all South Carolina projects, if applicable (include name, location, and completion date for each).

5. Disclosures and evidence of financial stability

- a. Disclosure of any potential conflicts of interest that could be relevant to this project in any manner.
- b. Disclosure of any projects/financing on which the team or any of its members has defaulted.
- c. Disclosure of whether the developer or any officer, director, or owner thereof has had judgments entered against it, him or her within the past 10 years for breach of contracts for governmental or nongovernmental construction or development.
- d. Disclosure of whether the developer has been in substantial noncompliance with the terms and conditions of prior construction contracts with a public body.
- e. Disclosure of whether any officer, director, owner, project manager, procurement manager, or chief financial official thereof has been convicted within the past 10 years of a crime related to financial fraud or to governmental or nongovernmental construction or contracting.
- f. Disclosure of whether any officer, director, or owner is currently debarred from bidding or contracting, pursuant to an established debarment procedure, by any public body, agency of any state, or agency of the federal government.
- g. Other evidence of financial stability of developer (can be submitted under confidential cover as detailed in "Submission Process")

## Additional Information

All facts and opinions stated in this solicitation are based on available information and are believed to be accurate. Nevertheless, neither the City of Orangeburg nor the UNC School of Government and its DFI program, nor any of their officers, agents, or employees, shall be responsible for the accuracy of any information provided to any respondent as part of this solicitation or vetting process. All respondents are encouraged to independently verify the accuracy of any information provided. The use of any of this information in the preparation of a response to this request is at the sole risk of the respondent.

Perkins & Will conducted preliminary site analysis and drafted conceptual plans in preparation for this solicitation. Perkins & Will is available for general consultation and discussion, and it has agreed to make this service available to all developer respondents on the same terms. Perkins & Will will not participate in evaluating responses to this solicitation.

Those submitting responses to the Solicitation for Development Partners assume all financial costs and risks associated with the submission. No reimbursement or remuneration will be made by the City or UNC to cover the costs of any submittal, whether or not such submittal is selected or utilized.

The City reserves the right to reject any or all submittals, or to waive irregularities or informalities in any submittal, in its sole and absolute discretion and accepts no responsibility for any financial loss by such action.

Any agreements that may be entered into between the developer(s) and the City, including but not limited to a Development Services Agreement, are subject to all statutory and legal requirements and ultimate approval by the City Council in its sole and absolute discretion and nothing herein is to be construed as binding on the City. In modeling this project, it was assumed that the City will convey the property to a private developer(s).

The City makes no express or implied warranty as to matters of title, zoning, tax consequences, physical or environmental conditions, valuation, financial conditions or economic matters, accuracy of the any materials or reports provided, governmental approvals, governmental regulations, or any other matter or thing relating to or affecting the properties described herein or any proposed transaction or agreement contemplated herein.

DFI does not act as a broker or agent of the City, and no representation made by DFI during the solicitation and vetting process shall be binding on the City. Notwithstanding any provision herein, this solicitation shall not constitute an offer to contract on the part of the City and shall not be construed to impose any legal obligations on the City.

This solicitation does not create any obligation or relationship such as a partnership, joint venture, or other similar legal relationship between the City and any potential party. Any references to “partner,” “partners” or other similar terms will not be deemed to create a legal relationship or otherwise alter, amend or change the relationship between any parties in the absence of a formal written agreement specifically detailing the rights, liabilities and obligations of the parties as to a new, specifically defined legal relationship.

## Appendix A:

### Contingent Fee Payment

“The performance by the City or the conveyance or lease of any portion of the property described herein (the “Property”) to the selected development entity and its successors and assigns (the “Developer”) shall be conditioned upon the execution of an agreement (the “Development Services Agreement”) between the City and the Developer pertaining to the responsibilities of either the City or the Developer, or both, regarding any aspect of the development of the Property or any portion thereof (the “Project”). As part of the Development Services Agreement, the Developer shall agree to pay a fee to the City’s consultant (“DFI”) and its successors and assigns for pre-development services provided to the City, and the Development Services Agreement shall provide that DFI is an intended third-party beneficiary of the Development Services Agreement.

The fee shall be an amount equal to 1.0% (one percent) of the total projected costs of development of the Project as calculated by the Developer in the most recent versions(s) of pro forma and other financial projections (the “Developer Financials”) prepared by the Developer and delivered to City or other parties prior to or contemporaneously with the execution of the Development Services Agreement, and in the event of any inconsistencies in the projected total costs among different versions of the Developer Financials, the version of the Developer Financials showing the greatest total costs of development of the Project shall be used to calculate the Development Services Fee.

The Development Services Fee shall be due and payable in full to DFI no later than 30 days following execution of the Development Services Agreement. An alternative payment schedule for payment of the Development Services Fee to DFI may be developed as mutually agreed in writing by Developer and DFI; by way of illustration only, such schedule of payments could be tied to the receipt of any developer fees by Developer. Developer’s obligation to pay Development Services Fee shall not be assignable by Developer to any other entity, nor shall any assignment relieve Developer of its obligation to pay Development Services Fee, except upon written consent of DFI.”



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