

## VI. TERMS AND CONDITIONS OF THE OFFER

### A. General Terms

This RFQ is not a contract or a commitment of any kind by the Port, and does not commit the Port to award an Exclusive Negotiating Agreement or to pay any cost incurred in the submission of a response. The Port, at its sole discretion, reserves the right to accept or reject, in whole or in part, submittals received in response to this request, to negotiate with any qualified source, or to cancel, in whole or in part, this RFQ. All submittals will become the property of the Port and will become public documents. Failure to provide any of the requested data within the specified submission period may cause the Port, at its sole discretion, to reject the submittal or require the data to be submitted forthwith.

The qualifications of each member of the development team are important criteria in the selection process. The selected Master Developer will not be allowed to substitute any members of the development team without prior approval by the Port. The Port, at its sole discretion, reserves the right to accept or reject proposed changes to the development team. The Port is not requiring development team members to form an exclusive relationship with any one Master Developer for purposes of responding to this RFQ. Team members may participate in multiple team submittals.

All facts and opinions stated within this RFQ and in all supporting documents and data, including but not limited to statistical and economic data and projections, are based on available information from a variety of sources. No representation or warranty is made with respect thereto. The Master Developer

will be responsible for conducting all feasibility analyses required to undertake the development.

In the interest of a fair and equitable selection process, the Port retains the sole responsibility to determine the timing, arrangement and method of proposal presentations throughout the developer selection process. Developers and members of their team are cautioned not to undertake any activities or actions to promote or advertise their qualifications or proposal except in the course of Port-sponsored presentations.

All questions regarding this RFQ should be submitted in writing only by mail, fax or e-mail. The deadline for receipt of questions is 4:00 PM on April 25, 2001. Responses to written questions will be provided in writing to all developers who have indicated an interest in the project.

Submit questions to: Anne Henny, AICP  
Senior Project Administrator  
Commercial Real Estate Division

Mailing address: Port of Oakland  
530 Water Street  
Oakland, California 94607

Fax number: (510) 839-2793

E-mail: [ahenny@portoakland.com](mailto:ahenny@portoakland.com)

The good faith deposit is \$100,000 for a 299-day period of Exclusive Negotiations. The selected developer's good faith deposit is non-refundable. The terms for extension of the period of Exclusive Negotiations are described in the attached Form of

Oak-to-Ninth District Exclusive Negotiating Agreement (see Appendix A).

The Specific Plan, and all of the interim reports and investigations prepared by the development team, will become the property of the Port.

## **B. Terms of the Lease**

Under the Oakland City Charter, the property can be made available for a maximum lease term of 66 years. It is the Port's general policy to grant a lease term sufficient to amortize the investment made in the property by the lessee.

The subject property includes land that is anticipated to be improved and maintained as open space. The open space parcels may be retained by the Port, transferred through the master lease to the Developer, or transferred to another public entity, which will assume management responsibility for the property. During the period of Exclusive Negotiations, the Port and developer will jointly determine the appropriate ownership vehicle for open space parcels. However, all of the Port-owned property will be used in the calculation of total allowed development on the developer's parcels.

The ground lease will have two components of rental income to the Port. These are guaranteed annual ground rent, and participation rent based on gross project revenues. A typical Port ground lease is available on CD-ROM.

## VII. MASTER DEVELOPER SELECTION PROCESS AND CRITERIA

### A. Selection Schedule

RFQ Available	March 15, 2001
Information Session and Tour of Project Area	April 4, 2001
Cut Off Date for Written Questions	4:00 PM April 25, 2001
RFQ Response Due	4:00 PM May 28, 2001
Short-listed Recommendations Presented to CRE Committee of the Board	July 5, 2001
Interviews / Developer Presentations.	July 20, 2001
Master Developer Selection Recommendation to Board of Port Commissioners	August 7, 2001
Exclusive Negotiating Period Begins Approximately 60 days after selection	

### B. Selection Criteria

The Port intends to select a development team to enter into exclusive negotiations based on the information contained in the responses to this RFQ, an investigation of the team's past projects and performance, interviews with the development entities, and other pertinent factors. The following criteria are among those that the Port will use to evaluate the submissions:

### 1. Developer Experience and Qualifications

- Experience in developing high quality waterfront projects of comparable size, land use and importance.
- A demonstrated track record in successfully master planning large mixed-use properties and securing appropriate entitlements.
- Completion of projects of similar size, land use, and level of investment.
- Experience working with the public sector in a public/private development relationship.
- Economic success of past projects.
- Architectural and urban design quality of past projects.
- Timeliness of performance.
- Qualifications of members of the development team.
- Meeting the Port's Non-Discrimination/Local Business guidelines (see Appendix D).
- Experience in formulating and implementing a community-based planning effort with broad participation resulting in community agreement on realistic development goals.

- Expertise in utilizing public financing mechanisms for the development of infrastructure and open space.
- Experience in meeting the requirements of the environmental process.
- Experience applying sustainable development policies and “green building” principles and practices (see Appendix F)
- Experience in preparing a Specific Plan or Planned Unit Development Plan.

## 2. Preliminary Development Concept (See Section VIII-D)

- Responsiveness of the preliminary development concept to the *Estuary Policy Plan* and the Port’s development objectives, including indications of financial feasibility.

## 3. Financial Capacity

- Capitalization of the development entity and ability to fund at least \$25 million of infrastructure, site, and open space costs.
- Experience in structuring complex, public-private financing plans.
- Completion of other similar-sized developments.
- Availability of sufficient predevelopment equity for project success, and the conditions required to access that equity.