

**For the Purchase and Redevelopment of Conklin Street Site for Mixed Use
REQUEST FOR PROPOSALS**

Addendum #5

Release Date: June 18, 2024

The following is a list of responses to questions submitted by prospective respondents to ESD's Conklin Street RFP. A copy of the RFP is available at:

<https://esd.ny.gov/sites/default/files/media/document/Conklin-Street-Request-for-Proposals.pdf>

ESD makes no warranties or representations about the accuracy of the provided documents. Respondents are advised to conduct their own due diligence regarding site conditions.

Environmental

No.	Question	Answer
1	<i>How are respondent's inclusion of Green Building/High-Performance Building Rating systems, including certifications, reflected in the scoring criteria?</i>	Under the "Development Program, Design, and Community Benefits" section of the Scoring Criteria there is language which states "Proposed development plan's program of uses, site plan, project design (including attractiveness and buildability), and incorporation of sustainable and resilient building practices that complies with building height and FAA restriction". Proposals will be scored in this criteria section based on the green certifications that are proposed.
2	<i>Are there any environmental reports, cost estimates, and/or data on contamination available for these properties to be shared?</i>	<p>There are no environmental reports to share. As referenced in RFP Section IV(E): Environmental Conditions and Review Process, the Site has the potential for petroleum-based contamination, and therefore will require additional subsurface investigation and remediation, including, but not limited to, environmental site assessments, which include sampling and testing of the soil, sediments, and ground water (if any).</p> <p>ESD has not conducted any studies to estimate the cost of environmental remediation work. For the purposes of the financial model, please use reasonable assumptions for cost estimates based on past experience or preliminary estimates.</p>

		The Designated developer will be required to initiate their own environmental studies to determine necessary remediation scope and costs.
3	<i>Given the potential remediation need may be substantial, what is ESD's position in submitting this site as a BCP?</i>	ESD has no objection to the use of the Brownfield Cleanup Program. If being considered, Respondents should include a narrative description of anticipated credits and process for securing them with NYS DEC.
4	<i>Will an Environmental Impact Statement (EIS) be done, or a less extensive Environmental Analysis (EA)?</i>	As referenced in RFP Section IV(E): Environmental Conditions and Review Process, an environmental review pursuant to SEQRA will be prepared for the proposed development. The need for an Environmental Impact Statement ("EIS") versus an Environmental Assessment ("EA") would depend on the scale of development and impacts from the proposed project.

Disposition

5	<i>Please clarify how the proposed site acquisition will be subject to FAA 'FMV' determination.</i>	The price offered for the property must be at or above fair market value (FMV) as outlined in RFP Section VI(E): Financial Proposal. FMV is a standard that is required to be met as part of the FAA's determination process to allow the release of the property from the Airport Layout Plan (ALP).
6	<i>Can more detail be provided on what legislation will be required for the site to be sold?</i>	All property identified as Republic Airport was conveyed to NYSDOT via legislation in NYS Transportation Law Section 400 which, without an appropriate amendment, precludes a sale or other property disposition and requires the property to be administered as an airport or used for airport-related purposes.
7	<i>Will the NYSDOT retain ownership of the parcels?</i>	NYSDOT will not retain ownership of the parcels. Under a disposition scenario, the Designated Developer will retain ownership. As stated in the RFP, Respondents should submit proposals assuming a disposition of the site.

ESD Cost Agreement

8	<i>Please detail the potential reimbursable costs which are incurred prior to the date of</i>	The cost agreement has been updated in Addendum III. ESD costs include but are not limited to: legal expenses related to the project, consultant fees for
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	<i>designation. For instance, is preparation of the RFP and staff time utilized during the site visits subject to reimbursement under this term?</i>	environmental review and SEQRA. Any costs associated with the project on or after conditional designation will be reimbursable to ESD. As provided in RFP Section V(D): Cost Agreement and Imprest Account, ESD staff time from conditional designation forward will be reimbursed via the administrative fee paid at closing.
9	<i>Please clarify the Imprest Account replenishment protocol.</i>	Account replenishment will be triggered once the balance is reduced below \$250,000.
10	<i>Please define “completion of the Development by Respondent.” At what point is the Respondent released from the requirement to reimburse ESD for expenses?</i>	The Imprest Account will be required until construction is substantially complete and a TCO is issued for the buildings.
11	<i>Upon designation, would ESD allow due diligence periods to assess the viability of the project (i.e. environmental inspections, geotechnical testing, receipt of title reports and full ALTA surveys, etc.), with the right to decline moving forward as Designated Developer at our sole and absolute discretion? Additionally, can you clarify at what point in the development process the Designated Developer is intended to take title to the property?</i>	<p>Respondents should assume that the Site, including land, improvements, and any supporting building infrastructure, will be disposed of “AS IS” and “WHERE IS” without any express or implied warranties, guarantees, or representations as to quantity, quality, title, character, physical and environmental condition, size, or kind, or that the same is in condition or fit to be used for the Respondent’s purpose.</p> <p>It is ESD’s expectation that upon conditional designation, the Designated Developer will conduct due diligence to more accurately define extraordinary projects costs (i.e., subsurface remediation, demolition of existing buildings) and reflect those costs in the project’s development budget.</p> <p>Disposition of the Site will not take place until construction loan closing. At this time, all necessary approvals and entitlements must be granted.</p>

Scoring & Designation

12	<i>A self-score was included in the RFP however, is there anything available that is more detailed?</i>	The scoring criteria outlines the evaluation metrics that will be used in determining a designated developer.
13	<i>Can you confirm if 30% is the MWBE requirement?</i>	Please refer to RFP Section IX(G): Non-Discrimination and Contractor & Supplier Diversity Requirements.

14	<i>Will the Town of Babylon participate in selecting a developer partner?</i>	The Town of Babylon will participate on the scoring committee.
15	<i>Are respondents permitted to correspond directly with the Town of Babylon prior to the RFP response date?</i>	Respondents may not correspond directly with the Town until after ESD selects a Designated Developer.
16	<i>Is there an estimated timeframe for selecting a Designated Developer?</i>	There is no estimated timeframe for ESD's selection of a Designated Developer.
17	<i>What input will adjacent properties have on the selection/approval process?</i>	The Designated Developer will be expected to present their plans at community and stakeholder meetings as needed.

Programming, Design & Zoning

18	<i>Can more detail be provided on the types of commercial uses to be included in the project?</i>	Commercial uses are not a requirement of the RFP; Respondents should propose commercial uses only if there is adequate market research supporting the type and demand.
19	<i>The RFP mentions preparing a GPP for the project. Why is a GPP necessary if the site will be rezoned with the Town of Babylon?</i>	A General Project Plan (GPP) is required for the land transaction necessary to facilitate the development.
20	<i>What is the height limit in feet, not floors, of any proposed construction?</i>	Respondents should conduct their own due diligence with respect to height restrictions imposed on the Site by the FAA. Please refer to Addendum II: FAA Building Height Analysis.
21	<i>Is there opportunity for community input on design features?</i>	Throughout the public outreach and entitlement process there will be opportunities for community input.
22	<i>Can the zoning allow for a max FAR and unit/acre density that is calculated to be inclusive of any carve-outs for future train station use?</i>	To be determined based on final plan and code. For purposes of the RFP submission, Respondents should assume a density calculation inclusive of any carve-outs for future train station use.
23	<i>Is a flat roof design allowed as of right?</i>	To be determined based on final plan and code.
24	<i>In the alternative to current zoning districts, can a special district be considered for the property?</i>	Subject to review and approval by the Town, a new zoning district will be considered as part of any Town rezoning as part of this project.



	<i>consistent with TOD design standards?</i>	
25	<i>Is the Town or State considering any modifications to traffic regulations associated with Conklin Street?</i>	Respondents should prioritize pedestrian connectivity. The project will be subject to environmental review to determine traffic impacts.
26	<i>Is there Town guidance or community feedback for the type of community or open space amenities referenced in the RFP?</i>	The Town is open to creative proposals for active and passive community or open space amenities.
27	<i>Given the scale of this potential development, what offsite or infrastructure improvements, if any, has the Town and State committed to advance as part of the redevelopment of this property?</i>	The project would be subject to SEQRA. Any impact to off-site infrastructure would be determined during the environmental review process and mitigation would be developed accordingly.
28	<i>Lewis Point Neighborhood Association, Inc. v. Town of Lenox, et al, Madison County Index No. EF2019-2130 (Sup. Ct. Madison Co. July 17, 2020) restated the rule that the question of whether a municipality’s rezoning is indicative of spot zoning is answered by a determination of whether the rezoning is meant to benefit a particular individual or is consistent with the municipality’s comprehensive plan. How is this RFP consistent with the municipality’s comprehensive zoning plan? Are there other areas within the town where this TOD zoning will be adopted?</i>	<p>The alignment of this RFP with the municipality's comprehensive zoning plan remains a matter for formal legislative and planning processes and cannot be conclusively addressed outside of those frameworks.</p> <p>Adoption of TOD Zoning in Other Areas: The adoption of TOD zoning in other areas within the Town requires thorough evaluation and approval through appropriate municipal channels, including community input, planning board recommendations, and town board resolutions.</p> <p>For precise legal interpretations and advice, we recommend consulting with a legal professional who specializes in municipal zoning laws.</p>
29	<i>Town of Babylon Building Code Chapter 213 Article XL references the importance and compatibility of Hot-Mix Asphalt Facilities. Section 213-476 outlines Location restrictions and compatibility of</i>	To be determined based on final plan and approved amendments to the Town’s zoning code. Any to-be-proposed rezoning shall take into account all surrounding uses.



	<p><i>asphalt plants with other sensitive uses inclusive of residential uses. What buffer distances will be required in the RFP submission to be compatible with the adjacent asphalt plant uses? What setback requirements and transition of permitted uses will be required as part of this RFP process?</i></p>	
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Housing & Affordability

30	<p><i>Is there any interest for a homeownership component?</i></p>	<p>Respondents are welcome to submit proposals that include homeownership units in addition to rental and affordable housing. Please see RFP Section VII: Selection Criteria.</p>
31	<p><i>Can respondents utilize competitive funding sources to increase affordability?</i></p>	<p>No. Proposals should assume that market-rate units cross-subsidize affordable units.</p>
32	<p><i>Is ESD interested in additional affordability?</i></p>	<p>Please refer to RFP Section VII: Selection Criteria.</p>
33	<p><i>Would the state consider splitting the site into multiple parcels to allow for separate developments to build a community of market-rate and affordable projects?</i></p>	<p>No. Affordable units should be integrated with market rate units.</p>
34	<p><i>Can the number of affordable housing units exceed the 20% minimum, as we request?</i></p>	<p>Please refer to RFP Section VII: Selection Criteria. In evaluating levels of affordability, respondents should consider the economic and financial viability of their proposal.</p>
35	<p><i>How would the Town of Babylon's designation as a New York State Pro-Housing Community impact available funding for this site?</i></p>	<p>Pro-Housing Community designation allows applicable communities to apply for certain discretionary funding programs, including the Long Island Investment Fund. Note that for purposes of the RFP submission, Respondents should not include such discretionary funding in their project underwriting.</p>
36	<p><i>What is the density of apartments per acre being proposed?</i></p>	<p>Please refer to RFP Section IV(B): Zoning.</p>
37	<p><i>Have any other residential uses been considered, like senior housing, or off campus housing?</i></p>	<p>Proposals should include rental and market-rate housing.</p>

38	<i>Are development proposals required to include a non-residential use in addition to multi-family residential on the subject parcel(s)?</i>	Non-residential uses are not required. Programs should reflect careful consideration of community needs and if providing non-residential uses, support reasons for their inclusion the proposal narrative.
39	<i>Is there a cap on retail or non-residential floor area if included?</i>	To be determined based on final plan and code. Non-residential programming should be supported by market research and financial analysis.
40	<i>Would ESD reconsider the use of housing capital subsidy, tax exempt bonds, and low-income housing tax credits? Are proposals permitted to assume conformance to New York State Homes and Community Renewal Term Sheets?</i>	ESD will not reconsider its position on the use of housing capital subsidy, tax exempt bonds, and low-income housing tax credits. Proposals should not assume conformance to NYS HCR term sheets as they are predicated on the above-mentioned financing sources.
41	<i>Can ESSHI awards be utilized as a part of our underwriting?</i>	No. Proposals should assume income generated from market-rate units will cross-subsidize the affordable units.

Funding, Taxes

42	<i>Would county funding for acquisitions and infrastructure be considered a subsidy?</i>	Proposals should not assume discretionary funding sources, including county funding, in their project underwriting. Respondents that identify potential discretionary funding sources should include a narrative describing such sources and how they would plan to secure them post designation.
43	<i>How is RUSH money awarded? Can you share assumptions regarding what funding is available for abatement, demolition, infrastructure, and parking?</i>	Rush funds are allocated to projects by ESD with other agencies and state entities involved in the approvals. Funding is available for site infrastructure and other site preparation costs. Agencies will review the underwriting of the entire project to ensure only the funds needed to address site needs and create an economically viable project will be allocated to a project. Funds are not to be used to directly fund base building construction costs.

LIRR

44	<p><i>LIRR Parking:</i></p> <p><i>a. What are the parking requirements for the LIRR station stop, and is the project expected to provide parking for LIRR customers as part of the development program?</i></p> <p><i>b. Are there shared parking expectations between the project and the potential future LIRR station?</i></p>	<p>Should there be future plans to construct a new station at this site, the required parking will be determined at that time, based upon project planning and design efforts. The station would be expected to provide kiss and ride, parking for MTA employees to meet operational needs, and minimal convenience parking for customers, including ADA parking.</p>
45	<p><i>Does the location of the potential future LIRR station have to be in the center of the site, or could it be moved to the Western or Eastern side of the site?</i></p>	<p>Developers may specify the carve-out area in their proposals, and the final determination of whether the location is suitable for a future train station is subject to MTA technical review.</p>

LIPA

46	<p><i>The RFP states that sources of funding for the purchase of an alternative LIPA site and relocation costs are not identified. What costs if any is LIPA prepared to cover, including removal of existing infrastructure/wires/structures on the LIPA Parcel, and installation of new improvements/site preparation on the alternative parcel.</i></p>	<p>As a New York State Authority, LIPA is committed to working collaboratively, both directly and through its service provider, to transact a swap if a parcel is identified by a developer that meets the specifications in Appendix F of the RFP.</p>
47	<p><i>The RFP states that an alternative LIPA parcel cannot be subject to FAA height restrictions – does this imply that the LIPA parcel cannot</i></p>	<p>If there is another portion of the RFP site that is equivalent to the LIPA site in terms of acreage and meets the height requirements, a proposal for</p>

	<i>be relocated within the RFP site boundaries?</i>	relocating the substation within the project Site can be considered.
48	<i>Are there any requirements for LIPA's future electrical substation that should be considered in the site plan?</i>	Please refer to Appendix F: LIPA Requirements for full requirements.
49	<i>Are respondents able to contact LIPA and the Town of Babylon's Assessor Office for information on site needs and future tax charges?</i>	Respondents should not reach out to LIPA regarding the LIPA site. All requirements for the LIPA site and electrical substation relocation are contained in Appendix F: LIPA Requirements. Respondents should assume applicable mill rates for property taxes upon disposition of the site and refer to documentation from the Town's IDA if assuming a PILOT.

MISC.

50	<i>Has ESD contacted the Bergen Point waste treatment facility to verify that there is capacity to add more volume to their facility? Has the Farmingdale Fire Department been contacted for their input on available equipment and responders for these new buildings? How will a development of this scale affect the traffic at the intersection of Conklin Street and Route 110?</i>	The project would be subject to SEQRA. Any impacts to traffic, waste management and/or fire department capacity would be determined during the environmental review process and mitigation would be developed accordingly.
51	<i>Please share a list of RFP tour attendees.</i>	Please see the attached Addendum IV: Site Tour Attendees.
52	<i>Will conditions relevant to acknowledging impacts from adjacent operating businesses/properties be part of any written disclosures given to future residents?</i>	All SEQRA documents are publicly available. Any impact to adjacent businesses/properties etc. would be analyzed during the environmental review process and mitigation would be developed accordingly.