



LINCOLN PUBLIC SCHOOLS

BUCKNER M. CREEL
ADMINISTRATOR FOR BUSINESS AND FINANCE

May 23, 2015

To: Becky McFall, Superintendent
School Committee
From: Buck Creel

Subject: Request for Proposal (RFP) for Lease of Hartwell Space

General Considerations. In June 2010, the School Committee entered into a five-year lease with Magic Garden for classroom, administrative and playground space in and around the Hartwell Building, to be used for nursery school and related uses. The 2010 lease started on September 1, 2011 and ends on August 31, 2016. The current annual rent is \$10,927, so the rental value of the property over the five-year period will exceed \$25,000 and a formal RFP process must be followed to comply with M.G.L. c. 30B § 16.

Rental Objective. The School Committee recognizes that its facilities have a range of public uses. When facilities are used on a periodic basis the School Committee policy KFB Use of School Buildings has established fees and conditions. When the School Committee establishes a longer-term use arrangement, i.e., an agreement to lease facilities to other organizations, it has the desire to cover the operational costs to the District of the leased facilities. The School Committee may wish to impose other restrictions on the proposed use of the space it deems surplus.

Declaration of Excess, Identification of Use Restrictions. MGL c. 40 § 3 contains the following paragraph:

“Notwithstanding the provisions of this section, a city or town, with the approval of the school committee, may rent or lease any school building not in actual use and, with the approval of the commissioner of education, surplus space in a school building in actual use to any one or more public or private profit-making businesses or nonprofit organizations; **provided, however, that joint occupancy of a school building in actual use as such shall not interfere with educational programs being conducted in said building.** The terms of any such rental or lease shall be as approved by the school committee; provided, however, that no school building not in actual use shall be rented or leased for an initial term longer than ten years, but with renewal options if approved by the school committee.” (emphasis added)

Real property transactions under Massachusetts procurement laws are somewhat flexible within the framework set by the enabling legislature, M.G.L. c. 30B § 16, which requires several actions:

- “Section 16. (a) If a governmental body duly authorized by general or special law to engage in such transaction determines that it shall rent, convey, or otherwise dispose of real property, **the governmental body shall declare the property available for disposition and shall specify the restrictions, if any, that it will place on the subsequent use of the property.** (emphasis added)
- (b) The governmental body shall determine the value of the property through procedures customarily accepted by the appraising profession as valid.
- (c) A governmental body shall solicit proposals prior to:
- (1) acquiring by purchase or rental real property or an interest therein from any person at a cost exceeding twenty-five thousand dollars; or

(2) disposing of, by sale or rental to any person, real property or any interest therein, determined in accordance with paragraph (b) to exceed twenty-five thousand dollars in value.

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(g) If the governmental body decides to dispose of property at a price less than the value as determined pursuant to paragraph (b), the governmental body shall publish notice of its decision in the central register, explaining the reasons for its decision and disclosing the difference between such value and the price to be received. “

The **Chapter 30B Manual** published by the Office of the Inspector General contains additional information about real property dispositions at less than the market price. In short, the School Committee is permitted to establish use restrictions to promote public purposes.

In light of all of this, before the lease can be recompeted, MGL c. 40 § 3 requires the School Committee to take several actions:

- affirm by public vote that the space in the Hartwell Building currently occupied by Magic Garden continues to be surplus space and available for rent.
- affirm by public vote that it desires the surplus space be used for programs with an educational purpose (such as a licensed child care program, professional development center or other uses) harmonious with the proper functioning of the adjacent Lincoln Pre-School.

The text of the motion proposed for School Committee consideration is attached. The Administration requests that the School Committee take a formal vote at their meeting on June 4, 2015.

A proposed timeline for recompeting the use of the Hartwell space is also attached.

MOVE

...that the School Committee affirms that the space in the Hartwell Building currently occupied by Magic Garden continues to be surplus space and available for lease, that it desires the surplus space be used for programs with an educational purpose harmonious with the proper functioning of the adjacent Lincoln Pre-School, and directs the Administration to solicit proposals for lease of the space in compliance with Massachusetts General Law.

Timeline. The following timeline is proposed for the Committee’s approval:

- June 4, 2015 School Committee discussion and vote on declaration of excess and use restrictions.
- August 21, 2015 School Committee receives draft RFP for review.
- **September 10, 2015** School Committee reviews and approves RFP for release.
- September 15, 2015 Deadline to submit to *Central Register* Sept 23 edition
- September 17, 2015 Deadline to submit to *Lincoln Journal* Sept 25 edition
- September 23, 2015 Posted on line in *Central Register*.
- September 23, 2015 Make RFP documents available on site for pick up. Post on LPS website. Advertise in *Lincoln Journal* September 25 and October 2.
- **September 24, 2015** SC appoints Final Selection Committee.
- September 30, 2015 Proposers’ Conference, 11:00 AM.
- October 12, 2015 Deadline for proposal submission, 11:30 AM. Determine responsiveness.
- October 12 to 16, 2015 Evaluate proposals.
- October 16, 2015 Recommendation to SC for vote to award contract.
- **October 22, 2015** SC discusses and votes.
- 1 week after SC vote Formally award contract.