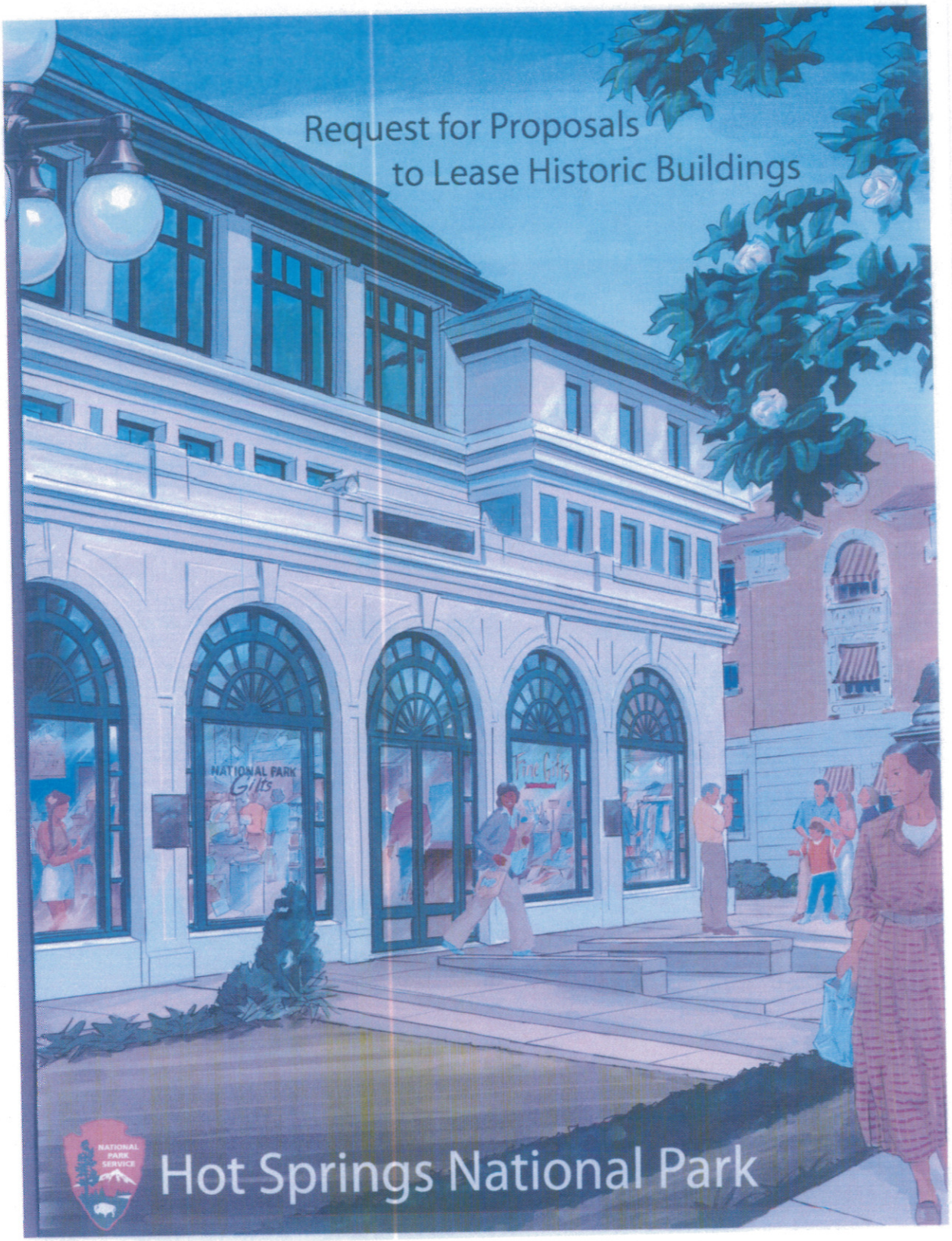


Open March 2, 2015
Close September 30, 2015

National Park Service
U.S. Department of the Interior

# REQUEST FOR PROPOSALS

## TO LEASE HISTORIC BUILDINGS IN HOT SPRINGS NATIONAL PARK

**ISSUED: March 2, 2015**

Offers and any modifications of them must be received by the National Park Service by

**September 30, 2015 by 4:00 pm CST**

At

National Park Service
Midwest Regional Office
Attn: Concessions and Leasing Manager
601 Riverfront Drive
Omaha, NE 68102

ADDRESS QUESTIONS AND INQUIRES IN WRITING TO:
Superintendent
Hot Springs National Park
101 Reserve Street
Hot Springs, Arkansas 71901

UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
MIDWEST REGION

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# REQUEST FOR PROPOSALS TO LEASE HISTORIC BUILDINGS IN HOT SPRINGS NATIONAL PARK

## I. Introduction

This Request for Proposals (RFP) is issued by the National Park Service (NPS) to solicit proposals from the private sector to lease on a long-term basis one historic bathhouse -- the Maurice Bathhouse building -- in Hot Springs National Park (Park).

The Maurice Bathhouse is located on Bathhouse Row, a National Historic Landmark District on Central Avenue in the City of Hot Springs, Arkansas. The Maurice is a three-story structure with a basement. It totals 22,919 square feet of space. See Attachment A for description.

Bathhouse Row contains the grandest collection of bathhouses of its kind in the United States. Six of the eight buildings on the Row are open to the public, and another building is under lease negotiations.

The Lamar Bathhouse is managed by the NPS to store its curatorial collection. It is also the home of the Bathhouse Row Emporium, the park's official store operated by Eastern National.

The Buckstaff Bathhouse, open under a concessions contract with the NPS, is a traditional bathhouse which has been operating continuously since 1912.

The Ozark Bathhouse is the park's Cultural Center. It houses the NPS Artist in Residence collection of artwork and it is used for park events and as well as a venue for private parties.

The Quapaw Bathhouse operates under a long-term lease with the NPS as a modern day spa that offers massage therapy, esthetician services and the thermal water in public pools as well as in individual tubs in a private bathing area.

The Fordyce Bathhouse was restored and reopened in 1989 as the Hot Springs National Park Visitor Center and Museum.

The NPS is negotiating a long-term lease for the Hale Bathhouse to open it as a boutique hotel and specialty restaurant.

The Superior Bathhouse operates under a long term lease with the NPS as a craft micro-brewery that uses the thermal waters for making their beverages.

Another historic bathhouse in the park, the Libbey PMC (not located on Bathhouse Row), is being advertised under a separate RFP.

### Adaptive Reuse

Although the building being offered under this RFP was historically built and used as bathhouse, the NPS seeks proposals which include an adaptive reuse of the facilities.

The NPS particularly believes that retail operations are appropriate and are a feasible business opportunity on Bathhouse Row since the downtown area is already a major tourism and shopping destination. The NPS welcomes the submission of proposals for other types of business opportunities consistent with the terms of this RFP. Applicants should note, however; that the following are activities that would not be considered appropriate uses of the buildings:

- Private Residences
- Adult Entertainment
- Gambling Enterprises

In addition, proposed uses for museum or similar purposes must be consistent with the provisions of NPS Management Policies 2006, Chapter 7.1, for the conduct of interpretive and educational programs in an area of the National Park System. (See Appendix A to this RFP).

The complete NPS Management Policies are available on the NPS website at www.nps.gov

**The Park**

Congress established Hot Springs Reservation in 1832 to protect the naturally flowing thermal springs on the southwestern slope of Hot Springs Mountain. Hot Springs Reservation together with the City of Hot Springs developed into a well-known resort that attracted and hosted health seekers from around the world.

The Reservation was renamed Hot Springs National Park in 1921. Today, the 5,500-acre national park continues to protect the 47 hot springs and the architecturally unique bathhouses that were built to offer the thermal water for bathing and relaxation.

Most Hot Springs National Park visitors come from the state of Arkansas and the five neighboring states of Louisiana, Tennessee, Missouri, Oklahoma and Texas. The following metropolitan areas are within a 350-mile radius of the park: Dallas/Fort Worth, Oklahoma City, Kansas City, Memphis, Jackson, Tulsa, St. Louis, and Shreveport.

Between 2009 and 2013, the Park averaged over 530,000 visitors per year on Bathhouse Row. Park-wide visitation, including recreation and non-recreation use, for the same period averaged over 3,440,250 visitors.

Bathhouse Row and its environs epitomize Hot Springs National Park in the minds of many people. It reflects the eclectic architectural interests of the early 20th century and recalls a period when the availability of leisure time and an interest in the therapeutic benefit of spas made the Hot Springs area a resort of national reputation.

**Local and Regional Economic Environment**

The City of Hot Springs (City) is located in Garland County (County) about 52 miles southwest of Little Rock in the south central part of Arkansas. With a combined population of approximately 98,000, the City and County exert significant influence on the Park. The area is a popular family and group destination in the South with its lakes, family friendly attractions, shopping, and thoroughbred horse racing. The community enthusiastically endorses the NPS effort to lease the available building through this RFP.

The City of Hot Springs is known as "the tourism capital of Arkansas" and it is a year round attraction to music and art lovers, and outdoor enthusiasts. Local attractions include Lake Hamilton, Lake Catherine and Lake Ouachita State Parks, which are popular regional water-based recreation destinations with yearly visitation of more than 1,343,400, and Magic Springs, an amusement park which attracts over 350,000 visitors annually. Oaklawn Park (racetrack and gaming), attracts approximately 1,580,000 visitors each year.

Leisure travelers to Hot Springs spend an estimated average of $120 per person per day on food, shopping, transportation, entertainment, lodging, and miscellaneous expenditures. Of this $120, 24% is spent on shopping and 26% is spent on food.

In the last decade, the Hot Springs area has experienced a rapid growth in the number of chain restaurants relocating near the lakes and has become a regional shopping center for surrounding smaller towns and communities. There are over 4,000 hotel/motel rooms and more than 200 restaurants in the immediate area and Bathhouse Row is located in the heart of this thriving commercial sector.

The City's downtown has experienced a renewal. Artists and Art Gallery owners have

been instrumental in stimulating a vibrant night life in the Central Avenue Historic District. A popular Gallery Walk on the first Friday of every month has continued uninterrupted for more than 20 years. A newly added Antique Walk on the third Friday of the Month has added to the charm and increased the pedestrian traffic downtown. The opening of the Embassy Suites Hotel & Spa in 2003 and the addition of a handful of eclectic restaurants make the downtown area even more inviting to visitors.

The Hot Springs Convention Center built in the 1960s as a 70,000 square foot facility is an attraction on its own. The center was expanded in 1998 to 240,000 square feet, and expanded again in 2003 to its present 360,000 square-foot facility. Convention Center activities range from concerts by named-entertainers, sporting events to national and regional conventions, and, accordingly, the types and sizes of visiting groups vary significantly. In 2010, more than 358,400 visitors attended 282 events hosted at the convention center.

Food and beverage, upscale retail operations, and art galleries are among the most successful businesses in the downtown area.

## II. The Building to be Leased

The building available for lease is the Maurice Bathhouse located on Central Avenue. The building is more than 100 years old and vacant at this time. The NPS has completed extensive stabilization and rehabilitation work on the building. However, lessees will be required to complete substantial additional rehabilitation work in order to make the building suitable for its specific intended use. Attachment A to this RFP describes the building for lease. It is the responsibility of the applicant to inspect the building and verify the existing conditions. It is highly recommended that applicants consult appropriate architectural and engineering professionals regarding their rehabilitation plans.

Applicants should note that the NPS considers that the rehabilitation cost of the buildings could exceed $500,000. Historic Tax Credits may be available through the Internal Revenue Service.

## III. Historic Preservation Considerations

The rehabilitation plans of the lessees must comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties and related policies and procedures. (See Appendix B to this RFP) All proposed rehabilitation plans of selected lessee will be reviewed by the NPS in consultation with the Arkansas State Historic Preservation Office to assure consistency with these standards.

## IV. Term of the Lease and Rent

36 C.F.R. Part 18 (See Appendix C to this RFP) states that the term of an NPS lease may be up to 60 years but directs that the term be as short as possible, taking into account the financial obligations of the lessee and other relevant factors.

Leases awarded under this RFP will require the payment of at least fair market value rent to the NPS. The determination of fair market value rent will take into account the lessee's rehabilitation costs associated with the leased property, the limitations on the uses of the property, and other relevant considerations.

To establish fair market value rent, the NPS will secure an appraisal of the property to be leased subsequent to selection of lease proposals. In general, applicants should anticipate paying rent comparable to rents for similar space and uses in the Hot Springs area. The rent will be adjusted

over the lifetime of the lease based on the annual Consumer Price Index (CPI) as published by the U.S. Department of Labor. Attachment B to this RFP lists additional terms and conditions a lease will contain along with related legal and business considerations.

## V. Proposal Instructions

Proposals must identify the building to be leased and contain specific detailed rehabilitation and investment plans and evidence of financial and management capability.

Innovative leasing proposals are welcomed. Proposals should be persuasive as to their feasibility and should reflect a realistic understanding of the building and its value. The terms and conditions of selected proposals, to the extent acceptable to the NPS, will be incorporated into the final leases.

E-mail or faxed proposals will not be accepted. Six copies of each proposal must be submitted (one copy must be the signed original). The copies will be on 8-1/2" x 11" paper, unstapled, and in 3-ring binders.

The NPS will evaluate responsive proposals that offer to further rehabilitate and reuse the buildings in conformance with the requirements of this RFP.

Each applicant is advised to furnish all the information required by this RFP. Failure to do so may result in a less favorable evaluation or a determination of non-responsiveness. A non-responsive proposal is a proposal that is not timely submitted or fails to meet the material terms and conditions of this RFP.

Proposals must be signed by an official authorized to act on behalf of the applicant.

Proposals and modifications must be enclosed in sealed envelopes and submitted in a timely manner.

The face of the envelope must show the hour and date specified on the title page of this RFP and the name and address of the applicant.

Proposals should be addressed to:

Concessions and Leasing Manager
National Park Service,
Midwest Regional Office,
601 Riverfront Dr.,
Omaha, NE 68102

Any questions an applicant may have regarding this RFP must be submitted in writing at least thirty (30) days in advance of the submission date in order to allow the NPS sufficient time to reply in writing to the requestor. No NPS employee or agent is authorized to make binding oral commitments of any nature regarding this RFP and/or the proposed leases.

Site visits can be arranged. Those interested in attending should contact the Park Superintendent or her representative for further information.

If applicants wish to have the NPS withhold proprietary financial information from potential disclosure, please refer to Attachment C to this RFP for information regarding use and disclosure of information contained in proposals.

This RFP and the bathhouse lease to be awarded under it are subject to 36 C.F.R. Part 18. (See Appendix C to this RFP).

## VI. Content of Proposals

A submitted proposal for the building(s) consists of following six sections:

1. Building Use Proposal
2. Proposed Preservation and Rehabilitation Plan
3. Proposed Environmental Plan
4. Financial Plan
5. Statement of Management Qualifications
6. Proposed Lease Terms and Conditions

**1. Building Use Proposal**

The building use proposal must identify the building(s) to be leased and specify the proposed use(s) of the building, the modifications or alterations to the building that will be required, and the time schedule for completing these modifications or alterations. The proposal should explain how the use(s) are compatible with the preservation, protection and visitor enjoyment of the Park. It should include, if applicable, facts, information, and data that demonstrate that a viable market demand exists for proposed commercial uses.

**2. Preservation and Rehabilitation Plan**

The preservation and rehabilitation plan is to specify how the applicant intends to carry out the proposal and shall address the preservation of the interior and exterior of the building to be leased. The plan shall comprehensively describe the applicant's proposed rehabilitation work and outline a detailed schedule for program development, rehabilitation, completion, and opening for operation. The appropriate preliminary plans and drawings should be included in the plan. Applicants should carefully review the Secretary of the Interior's Standards for the Treatment of Historic Properties in this regard. (See Appendix B to this RFP.)

If requested, the NPS will provide applicants with copies of the most current full-scale architectural drawings of the building. A cost recovery fee will be charged for the plans.

**3. Environmental Plan**

The environmental plan should describe how the applicant's proposed use(s) of the leased building will be conducted in an environmentally sound manner through, among other programs and actions, energy conservation, waste reduction and recycling.

**4. Financial Plan**

The financial plan should specify the financial means to implement the proposal. The proposal should not presume the availability of any federal funds or the likelihood of philanthropic income from private sources. The following information should be provided in sufficient detail to allow the NPS to make an informed evaluation of the financial plan:

a. A statement of the financial circumstances of the applicant. The applicant should include a copy of the applicant's audited annual financial statements from its two most recent fiscal years. If a new joint venture or entity is created specifically to respond to this RFP, such audited financial statements from the participating entities should be included.

b. A plan describing the projected costs of implementing the applicant's proposal, including without limitation, estimated rehabilitation and other expenses, expected equity requirements, and the working capital necessary to undertake the proposal and related lease obligations. The plan should document the source of these funds to the applicant and include compelling written evidence that the necessary funds are or will be available to the applicant through deposit documentation, financing commitment letters, letters of credit and/or other supporting material.

c. Identification of any affiliation or other relationship between the applicant and any other company, parent company, or subsidiary.

Applicants should complete and submit the form entitled "Financial Qualifications" included in Attachment D to this RFP.

**5. Statement of Management Qualifications**

The statement of management qualifications should detail the management capability of the applicant to carry out its proposal, as follows:

a. A statement describing the experience and qualifications for managing both the building rehabilitation and the proposed building use(s), including, without limitation, experience in historic rehabilitation, if any. Relevant experience in carrying out the types of activities stated in the applicant's environmental plan should be included. If you have ever filed for bankruptcy, had fines imposed on you or your business, or other legal proceedings against you or your business, please state the date(s) and nature of such actions. Please include names of employers/businesses/clients, as appropriate, dates, addresses, and phone numbers.

b. The name, address, and telephone number of the applicant and the name, address, and telephone number of a representative authorized to act on its behalf.

c. If the applicant is not an individual doing business under his/her own name, the statement of management qualifications must describe the status of the applicant (whether a corporation, a non-profit or charitable institution, a partnership, a business association or a joint venture) and indicate the jurisdiction under whose laws it is organized and operating.

d. Identify the known principals, partners, or co-ventures participating in the project, and the nature and share of each participant's interest in the project.

e. Provide the following information regarding your organization (existing or proposed); additional pages may be used in order to provide complete information:

If a corporation:
Articles of incorporation and by-laws
Organizational chart
List of officers and directors

If a partnership:
Partnership agreement
List of partners and their roles

If a sole proprietorship or other form of organization:
An explanation of organization.

**6. Statement of Proposed Lease Terms and Conditions**

State the applicant's expectations as to the term of the lease and state any particular other lease terms and conditions the applicant would expect its proposed lease to contain. Applicants should make these statements in consideration of the provisions of 36 C.F.R. Part 18 (See Appendix C to this RFP) as well as in consideration of the requirements of this RFP.

**VII. Criteria for Selection of Lease Proposals**

The NPS will evaluate proposals in response to this RFP under the following criteria:

1. The compatibility of the applicant's proposed use of the leased property with the preservation, protection and visitor enjoyment of the Park. Visitor enjoyment of the Park encompasses consideration of the suitability of the proposed use to a national park environment, including, without limitation, activities suitable for family participation and activities compatible with NPS educational and interpretive programs.

2. The compatibility of the applicant's proposal with respect to the building identified for lease and the proposed use in comparison to other proposals received. The NPS seeks an overall adaptive reuse of this historic building in an economic, visual, and

programmatically compatible and cohesive manner.

3. The financial capability of the applicant to carry out the terms of the lease, including the financing of building rehabilitation and intended uses.

4. The experience of the applicant demonstrating its managerial capability to carry out the terms of the proposed lease.

5. The ability and commitment of the applicant to conduct its activities in the Park in an environmentally enhancing manner through, among other programs and actions, energy conservation, waste reduction and recycling.

6. The benefit to the NPS of the financial and other terms and conditions of the proposal, including, without limitation, the scope of rehabilitation work proposed, the term of the lease, and other proposed lease terms and conditions.

7. The compatibility of the proposal with the historic qualities of the building to be leased.

**VIII. Proposal Review and Selection Process**

The NPS will review all responsive proposals submitted in response to this RFP through an evaluation panel assisted by technical consultants as appropriate.

It is the intention of the NPS to select prospective lessees from the responsive lease proposals submitted without further submittals or presentations. However, after the submission of proposals and prior to the selection of the best overall proposal(s), the NPS may request from any applicant additional information (in writing and/or through presentations) or written clarification of a proposal.

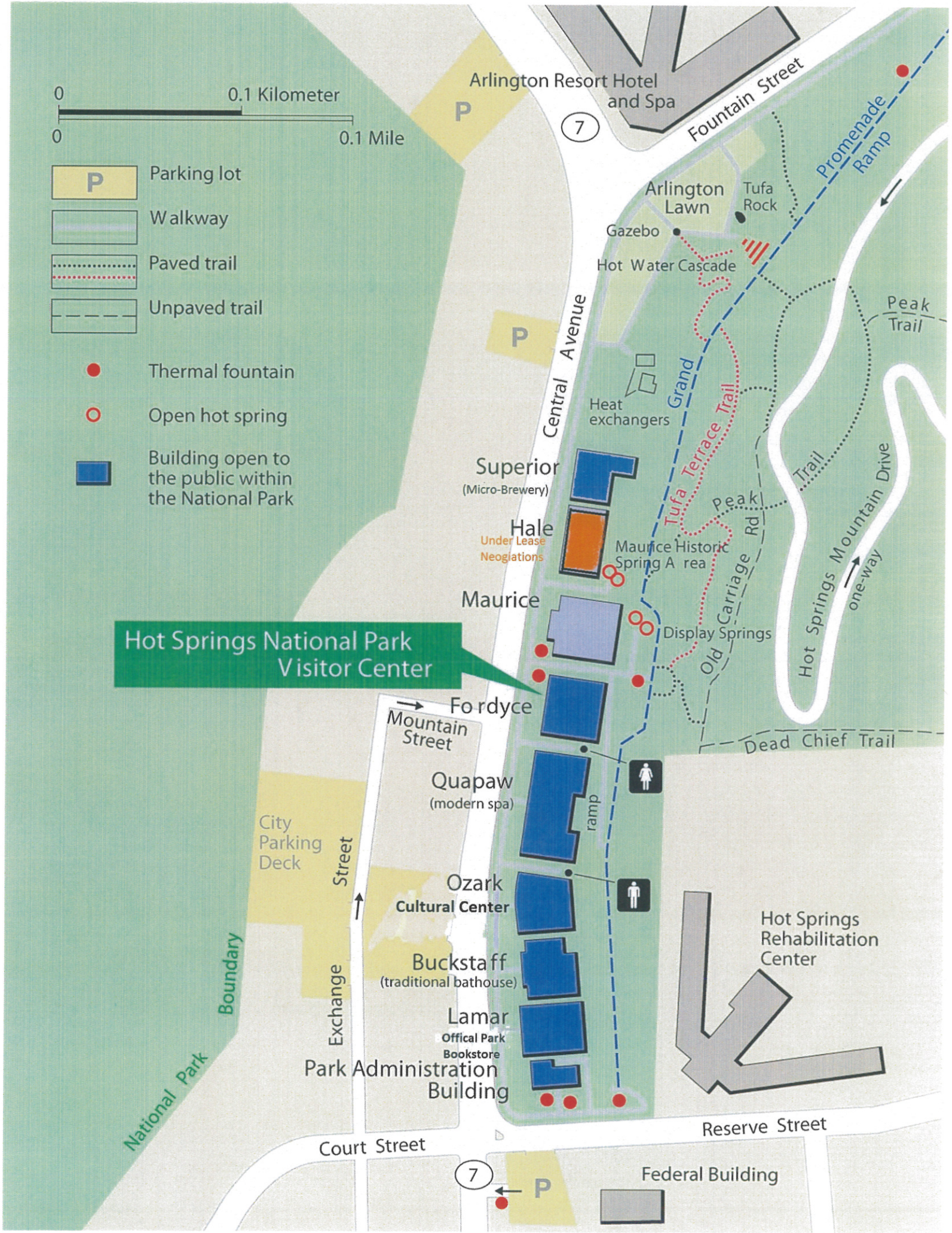
The responsive proposal for the building determined by the NPS to best meet on an overall basis the evaluation criteria will be selected for negotiation of a lease (subject to other terms and conditions of 36 CFR Part 18).

Although each proposal is required to identify the building to which it applies, the NPS may also evaluate proposals with respect to suitable additional buildings, if applicable.

The NPS will then negotiate the terms of the lease with the selected applicant(s), including specific provisions for building rehabilitation, rent, approvals, permitting, and coordination with the NPS within a time frame established by the NPS.

In the event that lease negotiations with a selected applicant fail to result in a lease of the applicable building, the NPS may offer to negotiate a lease for the building with additional applicants that submitted responsive proposals under this RFP that the NPS considers to be suitable for the applicable building.

In accordance with 36 CFR Part 18, the NPS may choose to reject all proposals and re-solicit or cancel this RFP. For administrative convenience, this RFP collectively refers to all the buildings available for lease. However, for purposes of 36 CFR 18.8(d), each lease proposal is considered as submitted applicable only to the building or buildings identified in the proposal.


0
0.1 Kilometer
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P
Parking lot
Walkway
Paved trail
Unpaved trail
Thermal fountain
Open hot spring
Building open to the public within the National Park
Arlington Resort Hotel and Spa
Fountain Street
Promenade
Ramp
Arlington Lawn
Tufa Rock
Gazebo
Hot Water Cascade
Peak Trail
Central Avenue
Grand
Tufa Terrace Trail
Heat exchangers
Superior
(Micro-Brewery)
Hale
Under Lease Neogiations
Maurice Historic Spring A rea
Peak Trail
Old Carriage Rd
Hot Springs Mountain Drive
one-way
Maurice
Display Springs
Hot Springs National Park Visitor Center
Fo rdyce
Mountain Street
Dead Chief Trail
Quapaw
(modern spa)
ramp
City Parking Deck
Street
Ozark
Cultural Center
Hot Springs Rehabilitation Center
Buckstaff
(traditional bathouse)
Exchange
Boundary
Lamar
Offical Park Bookstore
Park Administration Building
National Park
Reserve Street
Court Street
7
Federal Building

## ATTACHMENT A: DESCRIPTION OF THE HISTORIC BUILDING AND ENVIRONS

### General

One bathhouse is available for lease on Bathhouse Row and is located within Hot Springs National Park on Central Avenue in downtown Hot Springs, Arkansas. The City of Hot Springs, with a population of approximately 42,000, is located approximately 52 miles southwest of Little Rock. The historic building available for lease is listed in the National Register of Historic Places (entered on November 13, 1974).

The boundary of the Bathhouse Row Historic District extends from the city curb at the northeast corner of Central and Reserve Avenues north along the curb to approximately 50 feet north of the Superior Bathhouse, then turns at a 90° angle and extends to approximately 25 feet east of the Grand Promenade, then follows in a generally southerly direction along a line 25 feet east of the irregular eastern edge of the Grand Promenade to the city curb at Reserve Avenue, then turns approximately west along the curb to the corner of Reserve and Central Avenues. In addition, that portion of the Grand Promenade that extends north from the area covered in the above description to the sidewalk along the southeast side of Fountain Street is included in the Historic District. The District includes approximately six acres.

Across Central Avenue and running parallel to Bathhouse Row Historic District is the City of Hot Springs Central Avenue Historic District, entered in the National Register of Historic Places on June 25, 1985. The store fronts consist of novelty shops, restaurants and entertainment type activities.

### Current Building Conditions and Stabilization/Rehabilitation Work

The NPS has spent a substantial amount of federal funding in the bathhouses to make them suitable for re-adaptive use. Some of the stabilization measures include:

- Asbestos and lead-based paint have been removed. .
- Structural problems and deficiencies have been repaired and/or corrected.
- Basic HVAC units installed for climate control temperature on first floors.
- Basic electrical service and water lines, including thermal water service have been installed.
- Natural gas lines have been installed for HVAC boilers.
- Demolition work on unusable architectural, structural, mechanical, and electrical elements.
- Accessible ramps to all structures have been installed.
- Elevator installed.
- Fire sprinkler system installed.

### Historic Spaces

The Historic Structures Report for the Maurice Bathhouse identifies several areas as being Distinguishing Historic Interior space.

The Maurice space designated as being of primary importance will be rehabilitated to retain as much historic material as possible that still remains from the period of significance. Primary historic interior spaces include the lobby, first floor Women's Bath Hall, Men's Pack Room, Men's Bath Hall; and the third floor Roycroft Den and Office. Any restoration will also be based upon materials that existed during the period of significance.

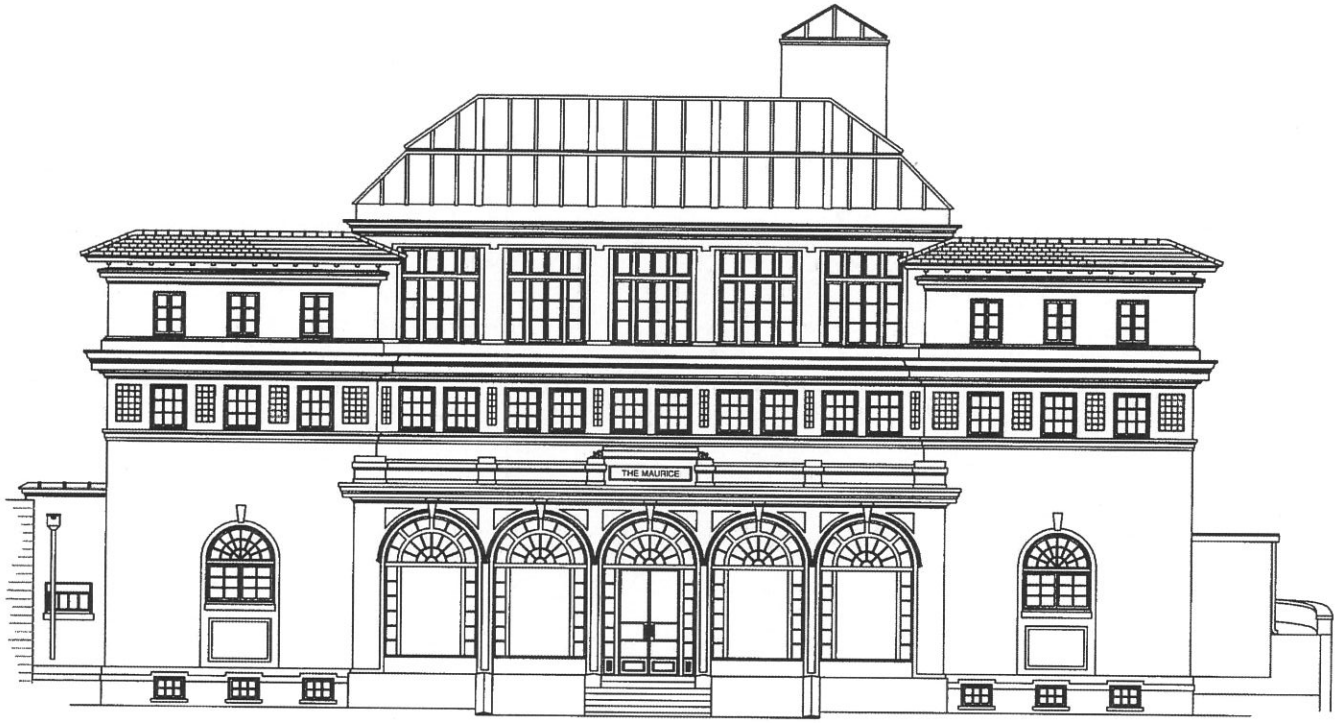
**The Maurice Bathhouse**

The Maurice Bathhouse, which originally opened in 1912, is a three-story structure with a basement and exterior dimensions of 100 feet by 100 feet. It totals 22,919 square feet of space with 4,940 square feet in the basement, 8,179 square feet on the first floor, 4,900 square feet on the second floor, and 4,900 square feet on the third floor. The exterior architecture is an eclectic mix of Spanish and Italian Renaissance Revival styles. Faced with stucco and inset colored tiles, it has good proportions, simplicity of design, and crisp detailing. The entry is a sun parlor or porch with five arched windows, set in antis between two pavilions. The five-bay motif is used again on the third floor in the central block. The Maurice Bathhouse closed in 1974.

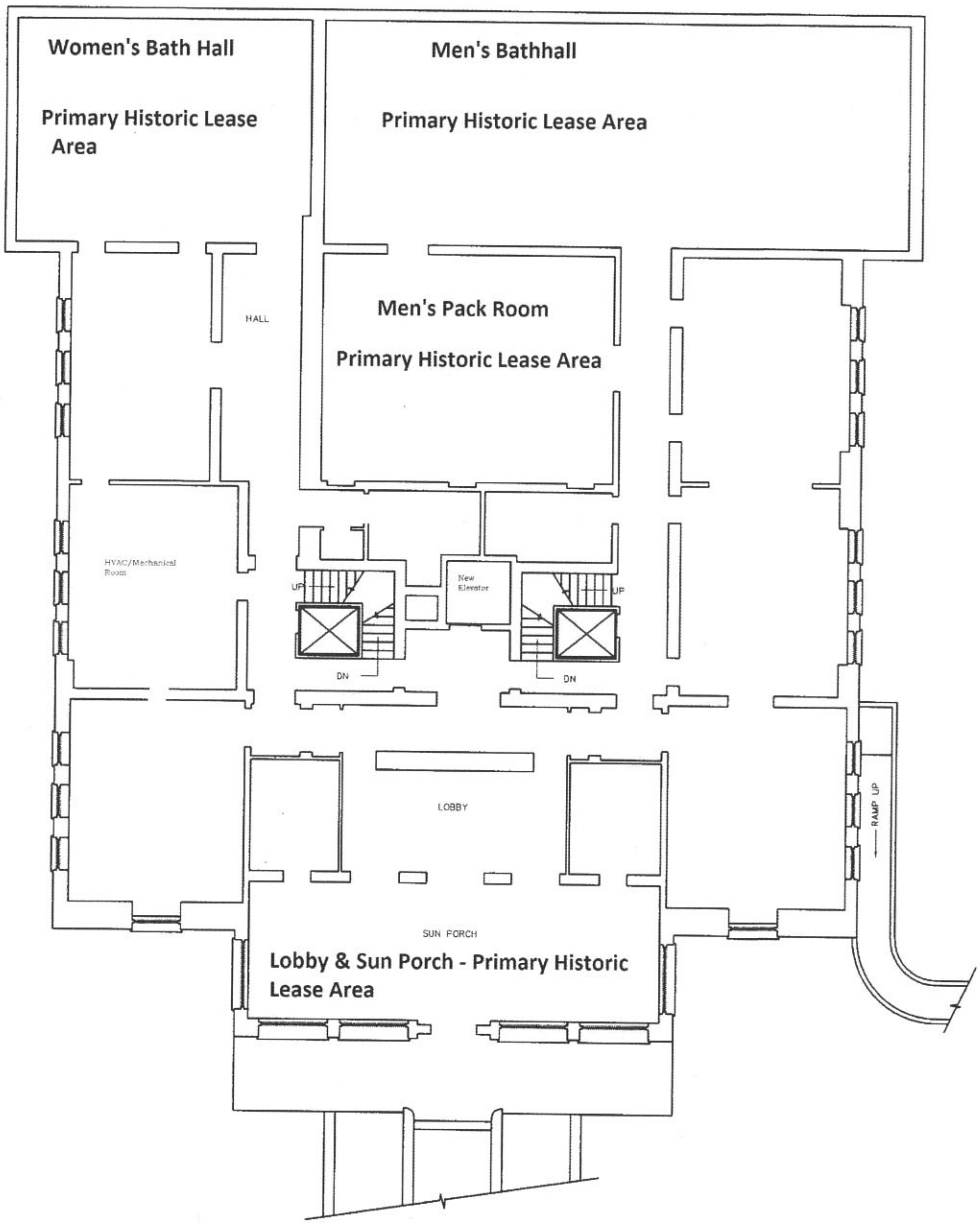
The Maurice has load-bearing masonry walls with concrete-beam and slab-floor construction. The beams are generally exposed (although plastered) and the masonry is plastered inside and stucco outside. The non-bearing walls are apparently clay tiles with plastered surfaces. Except for the hung ceiling in the entrance lobby, all other floor and roof ceilings have plaster applied directly to the concrete slab and beams.

The full basement is under the front four-fifths of the building. It is almost entirely below grade and is roughly finished with painted, exposed-concrete-slab walls and concrete beams and ceiling.

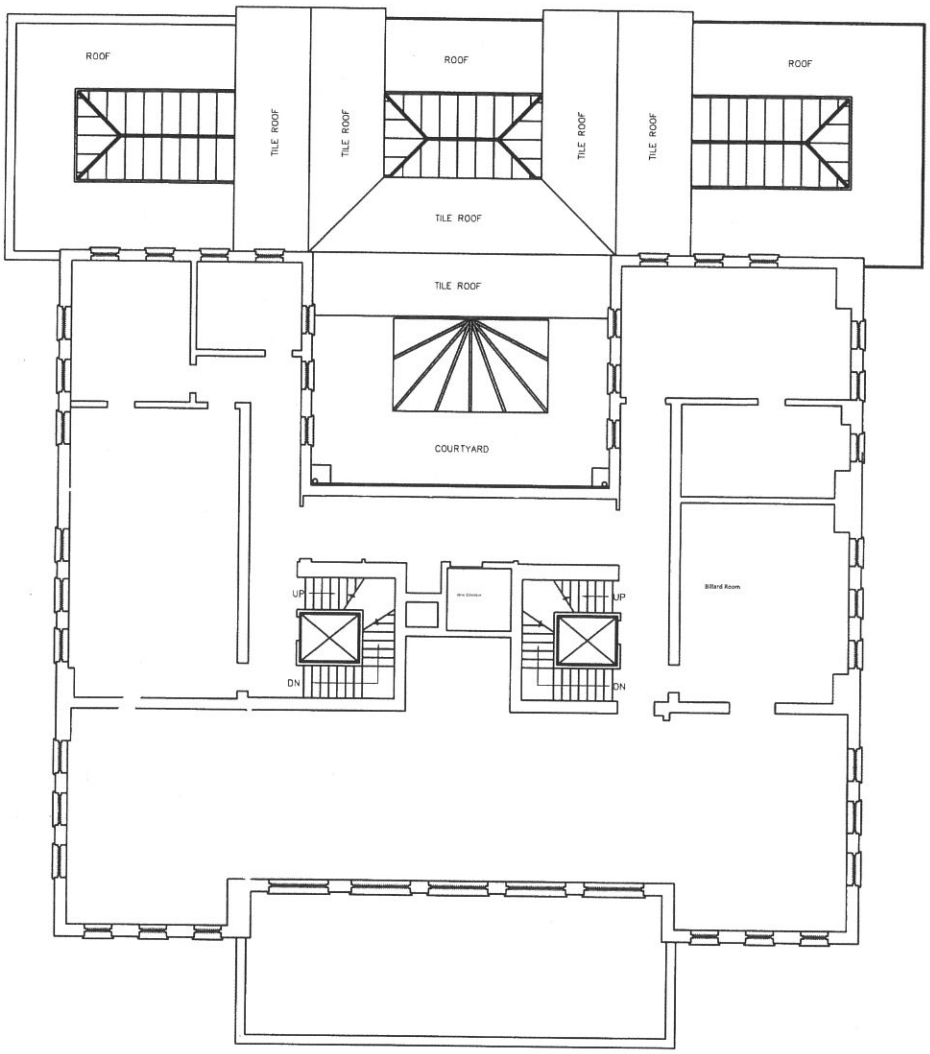
The roof of this building is predominantly flat, but has sloping green tile roofs along the parapet, over some of the rear spaces, and over the elevator penthouse. The third floor center is crowned by a pyramidal skylight that presents a dominant visual element of the façade.



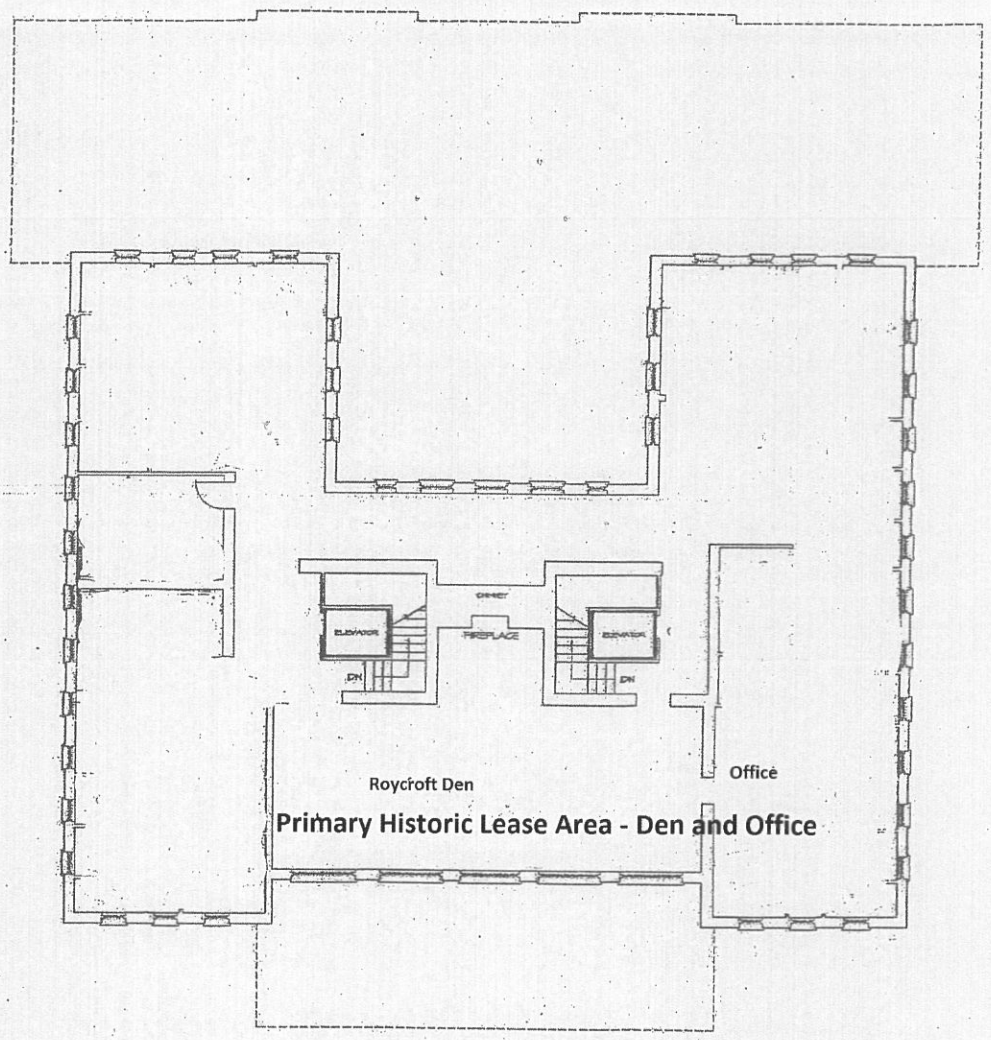

MAURICE BATHHOUSE – FRONT ELEVATION




MAURICE BATHHOUSE – FIRST FLOOR PLAN




MAURICE BATHHOUSE – SECOND FLOOR PLAN




MAURICE BATHHOUSE - THIRD FLOOR PLAN

## ATTACHMENT B:
## Legal and Business Considerations

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### A. Limitations on Sales

Regardless of the type of use of a leased building, the following items will not be sold or displayed:

- Tobacco products sold from vending machines
- Illegally obtained materials (e.g., materials from protected areas, sources, or species) and merchandise made from illegally obtained materials
- Merchandise that is improperly labeled as to its sources, manufacture, or nature
- Glass containers may not be sold from vending machines
- Archeological artifacts of any type

### B. Services

1. The National Park Service is not responsible for providing city water, sewage, electricity, and telephone service to leased structures. The Service assumes no responsibility to provide the lessee with these services. All required permits and inspections are the responsibility of the lessee.

2. No on-site parking is available. Limited access to street parking and nearby parking lot spaces is available. Parking arrangements are the responsibility of the lessee.

3. Thermal water is available from the National Park Service in accordance with the laws, regulations, policies, and availability. The National Park Service is responsible for periodic testing of thermal water to ensure compliance with the National Safe Water Drinking Act. The quantity of water available to the lessee will be discussed during lease negotiations. Lessees will not be entitled to any ground water or subsurface mineral rights pursuant to the lease.

### C. Taxes

The lessee shall be responsible for all taxes and other charges as may be assessed and levied by a proper authority.

### D. Compliance with Federal, State, and Local Laws and Park Jurisdiction

Hot Springs National Park operates under the jurisdiction of the federal government. The park has exclusive jurisdiction under the authority of the National Park Service Superintendent.

Law enforcement is conducted by National Park Service Rangers holding federal law enforcement commissions. Federal law and state law, through the Act of June 25, 1948, the Assimilative Crimes Act, are enforced by these officers. The Park has general agreements with the surrounding police departments that describe the law enforcement and mutual aid relationships.

Structural fire protection is conducted by the City of Hot Springs Fire Department.

Public health codes are prescribed by the United States Public Health Service (USPHS), and inspections will be conducted in accordance with model codes they have issued. The USPHS, through the Arkansas State Department of Health, will inspect and supervise the operation of the Park's water supply and sewage disposal systems. They will also inspect food service operations. Plans for food service facilities will require approval of the National Park Service, in consultation with the U. S. Public Health Service. That approval will be coordinated by the National Park Service.

Building codes that apply are the strictest of federal, state, and/or local codes or the applicable national codes that are NPS standards, whichever sets a higher standard. No construction may be undertaken unless the NPS has issued a letter or permit to proceed and has approved the plans involved and National Historic Preservation Act (NHPA) Section 106 (historical) and/or National Environmental Protection Act (NEPA) clearance has been received from the appropriate entity.

Although operations are conducted on federal property, the lessee will be subject to applicable state laws and ordinances in the same manner as if they operated outside the federal holding.

**E. Park Management Structure**

Hot Springs National Park is managed by a Park Superintendent. The Superintendent is assisted by a permanent authorized staff of approximately 60 employees. The Park organization is divided into four divisions: Administration, Maintenance and Utilities, Interpretation and Cultural Resources, and Resources Management and Visitor Protection. Each division is supervised by a chief who reports to the Park's Deputy Superintendent. Concession and leasing programs are managed by the Superintendent through the Deputy Superintendent, the Executive Assistant, and the Administrative Officer.

**F. Park Resource Management Issues**

Hot Springs National Park's core purpose is the protection of its thermal springs. Understandably, the Park's major resources, cultural as well as natural, are intimately related to the springs.

The presence of the hot springs is a result of the unique geology of the area and its present topography. The water is geothermally heated at an unusually shallow depth of only several thousand feet, and then rises through faults in the sandstone formation to emerge at the surface as thermal springs. The discharge zone, containing many separate springs, is a narrow strip about ¼ mile-long at the foot of Hot Springs Mountain along Central Avenue. This zone has been a focus of human activity for hundreds of years and is today the site of Bathhouse Row and downtown Hot Springs. Except for three display springs, the springs are concealed from visitors, and capped to prevent contamination. The spring water is captured and diverted into the Park's extensive underground thermal water distribution system.

Water use must be conserved in order not to overload the thermal water collection and distribution system providing water to users. Activities must be prevented that would reduce the natural flow of water in the spring system, introduce contaminants into the system, or disturb the flow paths of the thermal water in the discharge area.

Methods of control of pests and vegetation and use of pesticides and herbicides must be approved in advance by the NPS before execution.

**G. Concession and Other Authorizations**

36 C.F.R. § 18.6 states that NPS leases may not authorize activities by lessees that are subject to authorization by an NPS concession contract, commercial use authorization or similar instrument. The NPS will reject any lease proposal for uses that NPS considers to be in conflict with 36 C.F.R. § 18.6.

**H. Americans with Disabilities Act**

Leased buildings must meet the requirements of the Americans with Disabilities Act to assure that accessibility is provided throughout the facility. The Americans with Disabilities Act (ADA) establishes federal guidelines that define requirements for disabled access to parking facilities, pathways, and buildings.

**I. Minimum Business and Other Lease Terms and Conditions**

Leases awarded under this RFP will contain the terms and conditions stated in 36 C.F.R. § 18.11 and 18.12 (See Appendix C to this RFP).

**J. Historic Rehabilitation Income Tax Credits**

If the proposed use of these National Register properties is income producing or commercial, the investor(s) may qualify for the rehabilitation investment tax credit provided by the Internal Revenue Code. Under the provisions of these sections, rehabilitation expenditures made by a lessee may qualify for an investment tax credit providing the remaining lease term is no less than the applicable recovery period. For Hot Springs National Park, this program is administered jointly by the Internal Revenue Service and the NPS in conjunction with the Arkansas State Historic Preservation Office (SHPO). Questions regarding financial and administrative aspects of the tax code should be directed to the Internal Revenue Service. Questions regarding architectural or engineering aspects of the program should be directed to the Arkansas SHPO. Among the conditions for qualifications, the rehabilitation must be certified by the NPS to be consistent with the historic character of the structure and to meet The Secretary of the Interior's Standards for Rehabilitation. Potential lessees are advised that tax reform legislation is always a possibility and new tax provisions may affect the credits available for participants in the Historic Property Leasing Program. It is highly recommended that applicants whose use is income-producing or commercial consult with their legal and financial counsel regarding how the current tax code and potential changes may affect their proposal.

**K. Insurance**

The lessee will be required to maintain adequate insurance and to indemnify the National Park Service against losses connected with or caused by the use, activities, and operations authorized by the lease. The lessee should be aware that it is assuming a risk of loss or potential liability because the structures offered for lease are located in a 100-year floodplain. In addition to adequate insurance coverage, lessees may be required to undertake flood proofing measures to assure some protection against loss of life and property. These measures need not be physical measures but may include warning systems and evacuation plans.

**L. Bonds**

The lessee will be required to obtain a satisfactory surety bond in an amount that will reasonably assure performance of the contractual obligations under the lease. Such bonds may be for the purpose of guaranteeing the following: (1) not less than 1 year's rental unless the lease contract provides that the annual rental or portion thereof shall be paid in advance; (2) the estimated construction cost of any improvements by the lessee; (3) an amount estimated to be adequate to insure compliance with any additional contractual obligations.

**ATTACHMENT C:**
**Use and Disclosure of Proposal Information**

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For the purpose of this Prospectus, a "Trade Secret" means an unpatented, secret, commercially valuable plan, appliance, formula, or process, which is used for the making, preparing, compounding, treating, or processing of articles or materials which are trade-commodities. "Confidential commercial or financial information" means any business information (other than trade secrets) which is exempt from the mandatory disclosure requirements of the Freedom of Information Act, 5 U.S.C. § 552. Exemptions from mandatory disclosure regarding business information contained in proposals include Freedom of Information Act exemption (4), which covers "commercial and financial information obtained from a person (which is) privileged or confidential, 5 U.S.C. § 552(b) (4).

If the applicant believes that its proposal contains trade secrets or confidential commercial or financial information exempt from disclosure under the Freedom of Information Act, the cover page of each copy of the proposal shall be marked with the following legend:

"The information specifically identified on pages ___ of this proposal constitutes trade secrets or confidential commercial and financial information that the applicant believes to be exempt from disclosure under the Freedom of Information Act. The applicant requests that this information not be disclosed to the public, except as may be required by law. The applicant also requests that this information not be used in whole or part by the Government for any purpose other than to evaluate the proposal, except that if any Agreement and Lease is awarded to the applicant, the Government shall have the right to use the information to the extent provided in the Agreement and Lease."

The applicant also must specifically identify trade secret information and confidential commercial and financial information on the pages of the proposal on which it appears and must mark each such page with the following legend:

"This page contains trade secrets or confidential information and financial information that the applicant believes to be exempt from disclosure under the Freedom of Information Act and that is subject to the legend contained on the cover page of this proposal."

The NPS may use the information in the proposal identified by the proposal as trade secret information or confidential commercial and financial information only for the purpose of evaluating in the proposal, except that (1) if an Agreement and Lease is awarded to the applicant as a result of or in connection with submission of the proposal, NPS shall have the right to use the information as provided in the Prospectus, and (2) if the same information is obtained from another source without restriction it may be used without restriction.

If a request under the Freedom of Information Act seeks access to information in the proposal identified as trade secret information or confidential commercial and financial information, full consideration will be given to the applicant's view that the information constitutes trade secrets or confidential commercial or financial information. The NPS will notify the

applicant promptly of the request and give the applicant an opportunity to provide additional evidence and argument in support of its position, unless it is administratively infeasible to do so. If it is determined that the information claimed by the applicant to be trade secret information is not exempt from disclosure under the Freedom of Information Act, the NPS will notify the applicant of this determination to disclose the information.

The National Park Service assumes no liability for the disclosure or use of information contained in a proposal if not marked properly with the legends described above. Failure of an applicant to mark information contained in a proposal as trade secret information or confidential commercial or financial information will be treated by the National Park Service as evidence that the information is not exempt from disclosure under the Freedom of Information Act.

**ATTACHMENT D.**
**Financial Qualifications Statement**

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Applicants should use the following format to submit supplemental information with respect to Item 4 (Financial Plan) in Section VI of this RFP.

**FINANCIAL QUALIFICATIONS**

1. Submit a current balance sheet and income statement either personal or business. Also, submit a credit report(s) for the applicant. If the applicant is a new entity, please provide a credit report(s) for the entities that formed the applicant.

2. Submit a projected income statement for the first 5 years of operation for activities you propose to conduct in the leased premises. Include, as applicable, accompanying schedules of sales (by category); cost of sales (by category); and general, selling, and administrative expenses. If a not-for-profit use is proposed, submit projected income statement and projected general and administrative expenses only. Indicate assumptions on which the projections are based.

3. Submit your estimate of the cost of developing and operating the business proposed for the leased premises:

a. Initial Rehabilitation and Construction: $

b. Equipment: $

c. Inventory (if applicable) $

d. Working Capital: $

e. Other $

Total Cost: $

4. How will you finance the development and operation of the business:

Amount of Equity Capital: $

Amount of Borrowed Capital (Debt) $

Total Capital: $

## APPENDIX A.
## NPS MANAGEMENT POLICIES 2006 - 7.1:
## INTERPRETIVE AND EDUCATIONAL PROGRAM

Since its inception, one of the chief functions of the national parks has been to serve educational purposes. The Service is committed to extend its leadership in education, build on what is in place, and pursue new relationships and opportunities to make national parks even more meaningful in the life of the nation. Within the rich learning environments of national parks and facilitation by NPS interpreters, visitors will be offered authentic experiences and opportunities to immerse themselves in places where events actually happened, experience the thrill of connecting with real objects used by previous generations, enjoy some of the most beautiful and historic places in America, and understand the difficult moments our nation has endured.

Every park will develop an interpretive and educational program that is grounded in (1) park resources, (2) themes related to the park's legislative history and significance, and (3) park and Service-wide mission goals. The intent will be to provide each visitor with an interpretive experience that is enjoyable and inspirational within the context of the park's tangible resources and the meanings they represent. In addition, visitors should be made aware of the purposes and scope of the national park system.

Interpretation will encourage dialogue and accept that visitors have their own individual points of view Factual information presented will be current, accurate, based on current scholarship and science, and delivered to convey park meanings, with the understanding that audience members will draw their own conclusions. Interpretation will also reach out to park neighbors, segments of the population that do not visit national parks, and community decision-makers to stimulate discussions about the park and its meanings in local, regional, and national contexts. In addition, interpretive services will help employees better understand the park's history, resources, processes, and visitors.

An effective park interpretive and educational program will include :

1. *information and orientation programs* that provide visitors with easy access to the information they need to have a safe and enjoyable park experience;

2. *interpretive programs* that provide both on- and off-site presentations and are designed to encourage visitors to form their own intellectual or emotional connections with the resource. Interpretive programs facilitate a connection between the interests of visitors and the meanings of the park;

3. *curriculum-based educational programs* that link park themes to national standards and state curricula and involve educators in planning and development. These programs include pre-visit and post-visit materials, address different learning styles, include an evaluation mechanism, and provide learning experiences that are linked directly to clear objectives. Programs develop a thorough understanding of a park's resources in individual, regional, national, and global contexts and of the park's place within the national park system; and

4. *interpretive media* that provide visitors with relevant park information and facilitate more in-depth understanding of—and personal connection with—park stories and resources. This media will be continually maintained for both quality of content and condition based upon established standards.

**APPENDIX B**
**DOI STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES**
**(36 CODE OF FERERAL REGULATIONS PART 68)**

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## TITLE 36--PARKS, FORESTS, AND PUBLIC PROPERTY

## PART 68 - THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

--Table of Contents

Sec.
68.1 Intent.
68.2 Definitions.
68.3 Standards.

Authority: The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.); sec. 2124 of the Tax Reform Act of 1976, 90 Stat. 1918; EO 11593, 3 CFR part 75 (1971); sec. 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Source: 60 FR 35843, July 12, 1995, unless otherwise noted.

### 68.1 Intent.

The intent of this part is to set forth standards for the treatment of historic properties containing standards for preservation, rehabilitation, restoration and reconstruction. These standards apply to all proposed grant-in-aid development projects assisted through the National Historic Preservation Fund. 36 CFR part 67 focuses on ``certified historic structures'' as defined by the IRS Code of 1986. Those regulations are used in the Preservation Tax Incentives Program. 36 CFR part 67 should continue to be used when property owners are seeking certification for Federal tax benefits.

### Sec. 68.2 Definitions.

The standards for the treatment of historic properties will be used by the National Park Service and State historic preservation officers and their staff members in planning, undertaking and supervising grant-assisted projects for preservation, rehabilitation, restoration and reconstruction. For the purposes of this part:

(a) *Preservation* means the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(b) *Rehabilitation* means the act or process of making possible an efficient compatible use for a property through repair, alterations and additions while reserving those portions or features that convey its historical, cultural or architectural values.

(c) *Restoration* means the act or process of accurately depicting the form, features and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and

sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

(d) *Reconstruction* means the act or process of depicting, by means of new construction, the form, features and detailing of a non-surviving site, landscape, building, structure or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

**Sec. 68.3 Standards.**

One set of standards--preservation, rehabilitation, restoration or reconstruction--will apply to a property undergoing treatment, depending upon the property's significance, existing physical condition, the extent of documentation available and interpretive goals, when applicable. The standards will be applied taking into consideration the economic and technical feasibility of each project.

(a) *Preservation.* (1) A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.

(2) The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

(3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.

(4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color and texture.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(b) *Rehabilitation.* (1) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.

(2) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

(3) Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

(4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(9) New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(10) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(c) *Restoration.* (1) A property will be used as it was historically or be given a new use that interprets the property and its restoration period.

(2) Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces and spatial relationships that characterize the period will not be undertaken.

(3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.

(4) Materials, features, spaces and finishes that characterize other historical periods will be documented prior to their alteration or removal.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.

(6) Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.

(7) Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.

(8) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(9) Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(10) Designs that were never executed historically will not be constructed.

(d) *Reconstruction.* (1) Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture and such reconstruction is essential to the public understanding of the property.

(2) Reconstruction of a landscape, building, structure or object in its historic

location will be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts that are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.

(3) Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.

(4) Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties.
A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color and texture.

(5) A reconstruction will be clearly identified as a contemporary re-creation.

(6) Designs that were never executed historically will not be constructed.

**APPENDIX C**
**DOI STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES**
**(36 CODE OF FERERAL REGULATIONS PART 68)**

## TITLE 36--PARKS, FORESTS, AND PUBLIC PROPERTY

## PART 18--LEASING OF PROPERTIES IN PARK AREAS

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18.4 What determinations must the Director make before leasing property?
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18.11 What general provisions must a lease contain?
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Authority: 16 U.S.C. 1 et seq., particularly 16 U.S.C. 1a-2(k), and, 16 U.S.C. 470h-3.

Source: 66 FR 66759, Dec. 27, 2001, unless otherwise noted.

### Sec. 18.1 What is the authority and purpose for this part?

16 U.S.C. 1 et seq., particularly 16 U.S.C. 1a-2(k), and, 16 U.S.C. 470h-3 are the authorities for this part. These authorities allow the Director (or delegated officials) to lease certain federally owned or administered property located within the boundaries of park areas. All leases to be entered into by the Director under these authorities are subject to the requirements of this part, except that, proposed leases that were solicited pursuant to this part prior to January 28, 2002, may be executed in accordance with the terms of the solicitation.

### Sec. 18.2 What definitions do you need to know to understand this part?

In addition to the definitions contained in 36 CFR Part 1, the following definitions apply to this part:

(a) *Associated property* means land and/or structures (e.g., parking lots, retaining walls, walkways, infrastructure facilities, farm fields) related to a building or buildings and their functional use and occupancy.

(b) *Building* means an enclosed structure located within the boundaries of a park area and constructed with walls and a roof to serve a residential, industrial, commercial, agricultural or other human use.

(c) **Commercial use authorization** means a written authorization to provide services to park area visitors issued by the Director pursuant to Section 418 of Public Law 105-391 and implementing regulations.

(d) *Concession contract* has the meaning stated in 36 CFR Part 51.

(e) *Fair market value rent* means the most probable rent, as of a specific date, in cash or in terms equivalent to cash, for which the property to be leased, under the terms and conditions of the lease,
should rent for its highest and best permitted use after reasonable exposure in a competitive market under all conditions requisite to a fair leasing opportunity, with the lessor and the lessee each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress. Determinations of fair market value rent under this part are to be made taking into account the considerations stated in Sec. 18.5.

(f) *Historic building* means a building or buildings located within the boundaries of a park area if the building is part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(g) *Historic land* means land located within the boundaries of an historic property.

(h) Historic property means building(s) and land located within the boundaries of a park area if the building(s) and land are part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(i) *Land* means unimproved real property.

(j) *Lease* means a written contract entered into under the authority of this part through which use and possession of property is granted to a person for a specified period of time.

(k) *Non-historic building* is a building (or buildings) and its associated property located within the boundaries of a park area but not part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(l) *Non-historic land* means land located within the boundaries of a park area that is not associated property and is not part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(m) *Non-historic property* means building(s) and/or land that are located within the boundaries of a park area but are not part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(n) *Park area* means a unit of the national park system.

(o) *Property* means both historic and non-historic property that is located within the boundaries of a park area and is federally owned or administered.

(p) *Request for bids* refers to the lease bid process described in Sec. 18.7.

(q) *Request for proposals* refers to the lease proposal process described in Sec. 18.8.

(r) *Responsive bid or proposal* means a timely submitted bid or proposal that meets the material requirements of a request for bids or a request for proposals.

**Sec. 18.3 What property may be leased?**

(a) *In general*. The Director may lease any property (except non-historic land) under this part if the Director makes the determinations required by Sec. 18.4.

(b) *Non-historic land*. Non-historic land may not be leased under this part. Certain non-historic land is eligible for leasing under 36 CFR Part 17.

**Sec. 18.4 What determinations must the Director make before leasing property?**

Before leasing property in a park area under this part, the Director must determine that:

(a) The lease will not result in degradation of the purposes and values of the park area;

(b) The lease will not deprive the park area of property necessary for appropriate park protection, interpretation, visitor enjoyment, or administration of the park area;

(c) The lease contains such terms and conditions as will assure the leased property will be used for activity and in a manner that are consistent with the purposes established by law for the park area in which the property is located;

(d) The lease is compatible with the programs of the National Park Service;

(e) The lease is for rent at least equal to the fair market value rent of the leased property as described in Sec. 18.5;

(f) The proposed activities under the lease are not subject to authorization through a concession contract, commercial use authorization or similar instrument; and

(g) If the lease is to include historic property, the lease will adequately insure the preservation of the historic property.

**Sec. 18.5 May property be leased without receiving fair market value rent?**

Property may be leased under this part only if the lease requires payment of rent to the government equal to or higher than the property's fair market value rent. The determination of fair market value rent shall take into account:

(a) Any restrictions on the use of the property or terms of the lease that limit the value and/or the highest and best use of the property; and

(b) Any requirements under the lease for the lessee to restore, rehabilitate or otherwise improve the leased property.

**Sec. 18.6 Are there limitations on the use of property leased under this part?**

(a) A lease issued under this part may authorize the use of the leased property for any lawful purpose, subject to the determinations required by Sec. 18.4 and the limitations on activities set forth in paragraph (b) of this section.

(b) Unless otherwise authorized by law, a lease issued under this part may not authorize the lessee to engage in activities that are subject to authorization through a concession contract, commercial use authorization or similar instrument. Proposed lease activities are subject to authorization under a concession contract if the Director determines in accordance with 36 CFR part 51 and park area planning documents and related guidelines and policies that the proposed activities meet applicable requirements for issuance of a concession contract. Proposed activities are subject to authorization under a commercial use authorization if the Director determines in accordance with park area planning documents and related guidelines and policies that the proposed activities meet applicable requirements for issuance of a commercial use authorization.

**Sec. 18.7 How are lease proposals solicited and selected if the Director issues a Request for Bids?**

(a) If the amount of the rent is the only criterion for award of a lease, the Director may solicit bids through issuance of a request for bids as described in this section. If historic property is to be leased under the authority of this section, the Director must comply with 36 CFR part 800 (commenting procedures of the Advisory Council on Historic Preservation) at an appropriate time during the leasing process.

(b) A request for bids under this section shall be advertised by public notice published at least twice in local and/or national newspapers of general circulation. The notice shall provide at least a thirty (30) day period from the last date of publication for the submission of sealed bids. The notice will provide necessary information to prospective bidders. It may specify a minimum rent and/or require submission of a rent deposit or advance rent payment. Bids will be considered only if timely received at the place designated in the request. Bids must be in the form specified by the Director, or, if no form is specified, a bid must be in writing, signed by the bidder or authorized representative, state the amount of the bid, and refer to the applicable public notice. If the notice requires submission of a rent deposit or advance rent payment, the bids must include the required funds in the form of a certified check, post office money order, bank drafts, or cashier's checks made out to the United States of America. The bid (and payment where applicable) must be enclosed in a sealed envelope upon which the bidder shall write: ``Bid on lease of property of the National Park Service'' and shall note the date the bids are to be opened.

(c) Bids will be opened publicly by the Director at a time and place specified in the public notice. Bidders or their representatives may attend the bid opening. The bidder submitting a responsive bid offering the highest rent will be selected for award of the lease (subject to a determination of financial capability by the Director). A responsive bid is a bid that meets the material terms and conditions of the request for bids. The Director shall accept no bid in an amount less than the fair market rental value as determined by the Director. If two or more bids are equal, a drawing shall make the lease award by lot limited to the equal responsive bids received.

(d) When a property is to be leased through a request for bids, the bidder that is declared by the Director to be the high bidder shall be bound by his bid and this part to execute the offered lease, unless the bid is rejected. If the declared high bidder fails to enter into the lease for any reason, the Director may choose to enter into the lease with the next highest bidder (if that bidder offered to pay at least the fair market rent value). The Director may reject any and all bids in his discretion and resolicit or cancel a lease solicitation under this part at any time without liability to any person.

**Sec. 18.8 How are lease proposals solicited and selected if the Director issues a Request for Proposals?**

(a) When the award of a lease is to be based on selection criteria in addition to or other than the amount of the rent, the Director must, subject to Sec. 18.9, solicit proposals for the lease through issuance of a public Request for Proposals (RFP).

(b) An RFP may be preceded by issuance of a public Request for Qualifications (RFQ). The purpose of an RFQ is to select a ``short list'' of potential offerors that meet minimum management, financial and other qualifications necessary for submission of a proposal in response to an RFP. If the Director issues an RFQ, only persons determined as qualified by the Director under the terms of the RFQ shall be eligible to submit a proposal under the related RFP.

(c) The Director must provide public notice of the leasing opportunity by publication at least twice in local and/or national newspapers of general circulation and/or through publication in the Commerce Business Daily. The public notice shall contain general information about the leasing opportunity and advise interested persons how to obtain a copy of the RFP (or RFQ where applicable). The RFP (and RFQ where applicable) shall contain appropriate information about the property proposed for lease, including limitations on the uses of the property to be leased, information concerning the leasing process, information and materials that must be contained in a proposal, the time and place for submission of proposals, terms and conditions of the lease, and the criteria under which the Director will evaluate proposals. The RFP may state the fair market value rent as the minimum acceptable rent if determined by the Director at that time. The RFP (and RFQ where applicable) must allow at least sixty (60) days for submission of proposals (or qualifications under an RFQ) unless a shorter period of time is determined to be sufficient in the circumstances of a particular solicitation.

(d) The Director may determine that a proposal is non-responsive and not consider it further. A non-responsive proposal is a proposal that was not timely submitted or fails to meet the material terms and conditions of the RFP. After the submission of offers and prior to the selection of the best overall proposal, the Director may request from any offeror additional information or written clarification of a proposal, provided that proposals may not be amended after the submission date unless all offerors that submitted responsive proposals are given an opportunity to amend their proposals. The Director may choose to reject all proposals received at any time and resolicit or cancel a solicitation under this part without liability to any person.

(e) (1) The criteria to be used in selection of the best proposal are:

(i) The compatibility of the proposal's intended use of the leased property with respect to preservation, protection, and visitor enjoyment of the park;

(ii) The financial capability of the offeror to carry out the terms of the lease;

(iii) The experience of the offeror demonstrating the managerial capability to carry out the terms of the lease;

(iv) The ability and commitment of the offeror to conduct its activities in the park area in an environmentally enhancing manner through, among other programs and actions, energy conservation, waste
reduction, and recycling; and

(v) Any other criteria the RFP may specify.

(2) If the property to be leased is an historic property, the compatibility of the proposal with the historic qualities of the property shall be an additional selection criterion. If the RFP requires proposals to include the amount of rent offered, the amount of rent offered also shall be an additional selection criterion.

(f) The Director will evaluate all responsive proposals received. The responsive proposal determined by the Director to best meet on an overall basis the evaluation criteria will be selected for negotiation of the lease. If two or more responsive proposals are determined by the Director to be substantially equal under the evaluation criteria, the Director shall provide an opportunity for those proposals to be amended by their offerors as necessary for the Director to select the best amended proposal. In such circumstances, the Director will provide each offeror that submitted a substantially equal proposal appropriate information as to how their proposals may be amended in order to enhance the possibility of selection as the best amended proposal. If two or more proposals remain as substantially equal after amendment, the Director will select for negotiation of the lease from

among these proposals the proposal that the Director determines on an overall basis will be most beneficial to effective management of the park area.

(g) The Director will provide the offeror that submitted the best overall responsive proposal as determined by the Director a specified period of time to negotiate the final terms of the lease (and may enter into a letter of intent to negotiate in this connection). The final terms of the lease must be consistent with the requirements of the RFP. If the negotiations do not result in an executed lease within the specified time period, the Director, in his discretion, may extend the negotiation period, terminate negotiations and negotiate with the offeror that submitted the next best responsive proposal, or, cancel the solicitation.

(h) RFPs may state that the amount of rent to be paid will be negotiated subsequently with the offeror that submitted the best proposal, initially or as amended. The Director may execute a lease only if the Director determines that it requires the lessee to pay at least the fair market value rent of the leased property.

(i) The Director may execute a lease that includes historic property only after complying with 36 CFR Part 800 (commenting procedures of the Advisory Council on Historic Preservation).

**Sec. 18.9 When may the Director lease property without issuing a request for bids or a request for proposals?**

The Director, except as provided in this section, may not lease property without issuing a request for bids or a request for proposals in compliance with Sec. 18.7 or Sec. 18.8. The Director under this part may enter into leases with non-profit organizations (recognized as such by the Internal Revenue Service) or units of government without complying with Sec. Sec. 18.7 or 18.8 if the Director determines that the non-profit or governmental use of the property will contribute to the purposes and programs of the park area. All other requirements of this part are applicable to leases entered into or to be entered into under authority of this section. The Director may enter into leases under this part with a term of sixty (60) days or less without complying with Sec. Sec. 18.7 or 18.8 if the Director determines that to do so is in the best interests of the administration of the park area. If historic land is to be leased under the authority of this section, the
Director must comply with 36 CFR part 800 (commenting procedures of the Advisory Council on Historic Preservation) before entering into the lease.

**Sec. 18.10 How long can the term of a lease be?**

All leases entered into under this part shall have as short a term as possible, taking into account the financial obligations of the lessee and other factors related to determining an appropriate lease term. No lease shall have a term of more than 60 years. Leases entered under the authority of this part may not be extended, except that, leases with an initial term of one (1) year or more may be extended once for a period not to exceed one (1) additional year if the Director determines that an extension is necessary because of circumstances beyond the Director's control.

**Sec. 18.11 What general provisions must a lease contain?**

All leases entered into under this part must contain terms and conditions that are determined necessary by the Director to assure use of the leased property in a manner consistent with the purposes of the applicable park area as established by law, and where applicable, to assure the preservation of historic property.

**Sec. 18.12 What specific provisions must a lease contain?**

All leases entered into under this part must contain:

(a) A termination for cause or default provision;

(b) Appropriate provisions requiring the lessee to maintain the leased property in good condition throughout the term of the lease;

(c) Appropriate provisions stating that subletting of a portion of the leased property and assignment of a lease, if permissible under the terms of the lease, must be subject to the Director's written approval. Such subleases and assignments shall be approved only of the

Director determines, among other relevant matters, that the proposed sub-lessee or assignee is financially and managerially capable of carrying out the terms of the lease. Assignment of a lease for the purpose of effectuating an encumbrance to the lease or the leased property is subject to approval pursuant to the requirements of paragraph (l) of this section;

(d) Appropriate provisions requiring the lessee to secure and maintain from responsible companies liability insurance sufficient to cover losses connected with or occasioned by the use and activities authorized by the lease. Types and amounts of insurance coverage will be specified in writing and periodically reviewed by the Director;

(e) Appropriate provisions, unless the Director determines otherwise in the circumstances of a particular lease, requiring the lessee to obtain from responsible companies casualty insurance (including flood insurance if applicable) in an amount sufficient to protect the interests of the lessee and the government. In the event of casualty, the lessee shall be required to repair or replace damaged or destroyed property unless otherwise determined by the Director;

(f) Appropriate provisions requiring the lessee to save, hold harmless, and indemnify the United States of America and its agents and employees for all losses, damages, or judgments and expenses resulting from personal injury, death or property damage of any nature arising out of the lessee's activities under the lease, and/or the activities of the lessee's employees, subcontractors, sub-lessees, or agents. No lease entered into this part may contain provisions intended to provide indemnification or other assurances to the lessee regarding the conduct or activities of the Director concerning the lease or the administration of the applicable park area. Leases may contain appropriate provisions that commit the Director to accept responsibility for tortious actions of government officials to the extent authorized by the Federal Torts Claim Act or as otherwise expressly authorized by law;

(g) Appropriate provisions requiring the lessee to pay for use of all utilities used by the lessee and to pay all taxes and assessments imposed by federal, state, or local agencies applicable to the leased property or to lessee activities;

(h) Appropriate provisions stating that the lessee has no rights of renewal of the lease or to the award of a new lease upon lease termination or expiration and that the lease is subject to cancellation by the Director in the exercise of the sovereign authority of the United States to the extent provided by applicable law;

(i) Appropriate provisions stating that the lessee may not construct new buildings or structures on leased property, provided that, a lease may contain appropriate provisions that authorize the lessee to construct, subject to the prior written approval of the Director, minor additions, buildings and/or structures determined by the Director to be necessary for support of the authorized activities of the lessee and otherwise to be consistent with the protection and purposes of the park area. Approval by the Director of new construction may only be granted if the Director makes the determinations required by Sec. 18.4;

(j) Appropriate provisions requiring that:

(1) Any improvements to or demolition of leased property to be made by the lessee may be undertaken only with written approval from the Director;

(2) That any improvements to or demolition of historic property may only be approved if the Director determines that the improvements or demolition complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR part 68); and

(3) Any improvements made by a lessee shall be the property of the United States;

(k) Appropriate provisions that describe and limit the type of activities that may be conducted by the lessee on the leased property. The types of activities described in a lease may be modified from time to time with the approval of the Director through an amendment to the lease. The Director may approve modified activities only if the determinations required by Sec. 18.4 remain valid under the proposed modified activities and the proposed activities are otherwise determined appropriate by the Director;

(l) Appropriate provisions, unless the Director determines not to permit pledges or encumbrances in the circumstances of a particular lease, authorizing the lessee to pledge or encumber the lease as security, provided that any pledge or encumbrance of the lease and the proposed holder of the pledge or encumbrance must be approved

in writing in advance by the Director and that a pledge or encumbrance may only grant the holder the right, in the event of a foreclosure, to assume the responsibilities of the lessee under the lease or to select a new lessee subject to the approval of the Director. Pledges or encumbrances may not grant the holder the right to alter or amend in any manner the terms of the lease;

(m) Appropriate provisions stating that fulfillment of any obligations of the government under the lease is subject to the availability of appropriated funds. No lease issued under authority of this part shall entitle the lessee to claim benefits under the Uniform Relocation Assistance Act of 1970 (Public Law 91-646) and all leases entered into under the authority of this part shall require the lessee to waive any such benefits; and

(n) Appropriate provisions granting the Director and the Comptroller General access to the records of the lessee as necessary for lease administration purposes and/or as provided by applicable law.

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