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## **INVITATION TO QUOTE (ITQ) TO PERFORM FINANCIAL ANALYSIS FOR 115 N. FEDERAL HIGHWAY INFILL MIXED-USE REDEVELOPMENT PROJECT**

**September 10, 2021**

### **1. BACKGROUND**

On July 23, 2021, the Boynton Beach Community Redevelopment Agency (CRA) issued a Request for Proposals and Developer Qualifications (RFP/RFQ) for the acquisition and redevelopment of various CRA owned parcels including 115 N. Federal Highway, Boynton Beach, Florida; adjacent parcels for which the CRA has secured the property owners' consent to include in this RFP/RFQ and which the CRA anticipates owning prior to project commencement; and other parcels not owned or controlled by the CRA, as referenced and identified on Attachment "A," Aerial Map/Parcel Map of the RFP/RFQ. The RFP/RFQ is available at <https://www.boyntonbeachcra.com/Home/Components/RFP/RFP/10/80>.

### **2. PROJECT DESCRIPTION**

The CRA is seeking qualified individuals or firms to perform an independent third-party evaluation of development proposals from the 115 N. Federal Highway Infill Mixed-Use Redevelopment Project Request for Proposals and Developer Qualifications (RFP/RFQ) received by the CRA.

### **3. BUDGET**

The FY 2020-2021 Budget allocation for all phases of the ITQ is \$25,000.00.

### **4. SCOPE OF WORK**

#### **Phase 1 - Evaluation of Development Proposal(s)**

The scope of the work in Phase 1 includes a financial analysis of the development proposals in accordance with the Evaluation and Selection Criteria and provide recommendations to the CRA at its November 30, 2021 and/or December 14, 2021 Board meetings. Specific tasks include the following:

1. Review of initial proposals and other background material provided by the CRA
2. Confer with CRA regarding its objectives, capabilities, concerns, and parameters for the project and evaluation
3. Identify additional information to be requested of the proposers
4. Review such information for reasonableness, which may entail research and outreach to sources in the local real estate market and other appropriate parties
5. Evaluate qualifications of the developer, to the extent not done by the CRA
6. Evaluate the proposal's potential feasibility, net financial effect on the CRA and City, risk and other relevant implications
7. Coordinate with CRA and other relevant parties to support the above tasks
8. Participate in team meetings, as needed, in preparations to CRA Board
9. Prepare report summarizing the evaluation for presentation to CRA Board
10. Such other services as may be agreed to be appropriate to perform the work

## Phase 2 – Additional Services Negotiation Assistance

Additional services may also include assisting in the negotiation of business terms for disposition and possibly other forms of assistance for gap financing with a developer resulting from the previously mentioned solicitation process. Assistance in this phase consists of understanding what the developer realistically can and cannot live with in terms of securing project financing and how variations in transaction terms redistribute value and risk between the transaction participants. The selected respondent will assist in finding creative ways to capitalize on the parties' objectives and will likely take the form of:

1. Formulate transaction structuring options
2. Perform financial analysis of such options or revised developer proposals
3. Lead or assist CRA in negotiation of business terms
4. Participate in drafting/review of proposals and term sheets of major business terms
5. Participate with CRA staff and attorney in documentation (review and/or drafting of relevant business terms) of legal agreements to ensure business terms are effectively locked in
6. Prepare memoranda or such other materials as may facilitate negotiation, decision-making, and communication
7. Participate in team meetings and presentation to CRA Board
8. Such other services as may be agreed to be appropriate to perform the work

## 5. SUBMITTAL REQUIREMENTS

Interested parties may submit a signed proposal letter with a brief summary of the respondent's demonstrated experience at performing similar complex financial analysis and real estate development proformas and operating budget for similar urban mixed-use projects. Respondents who have performed these services for public agencies and/or public private partnership (P3) projects is preferred but not required. Include a description of key members of the respondent's team who will serve as a contact for this project. The signed proposal letter, description of key members, and summary of demonstrated experience shall not exceed a total of five pages, with a minimum 10 point font. Respondents may use website links to supplement the submission package.

Additionally, a completed **Attachment "A," Respondent Information and Past Performance**, is required which includes the respondent's legal history and three verifiable references, contact names, addresses, telephone numbers, email addresses, scope of work/contract amount, and dates of service. A contact person shall be someone who has personal knowledge of the respondent's performance for the specific requirements listed. Contact person must have been informed that they are being used as a reference and that the CRA may be contacting them. DO NOT list persons who are unable to answer specific questions regarding the requirement. This information will be considered in the contract award review. Failure to include all data necessary to evaluate a respondent's past performance may eliminate respondent from the ITQ process; prior submittals will not be accepted.

The proposer shall also identify any prior relations with the CRA or RFP/RFQ proposer for each individual team member or firm, members of its Board or its officers. The CRA reserves the right, in its sole discretion, to request additional information from any member of the respondent's team to determine potential conflicts of interest and to limit or prohibit the participation of any team member due to such conflict.

## 6. CONTRACT FEE STRUCTURE

The CRA will negotiate a one-year contract with the selected respondent. Respondents should structure their fee schedules to include the following and shall complete **Attachment "B," Proposed Fee Schedule**:

- a. A flat fee for Items 1, 2, 3, 4, and 6 in Attachment "B," as described in Section 4, Scope of Work. For the purpose of calculating the fee for the CRA Board meetings, it should be noted that each agenda item varies greatly but a typical CRA Board meeting lasts an average of two and one-half hours.

- b. Hourly fee for item 7 of Attachment “B,” as described in Section 4, Scope of Work. The CRA reserves the right to contract for services in Phase 2 at an hourly rate.

## **7. PROJECT SCHEDULE**

The following tentative schedule is anticipated for actions related to the ITQ. All dates, times, and locations are subject to change.

ITQ Submittal Deadline:	September 20, 2021, 5:00 p.m.
Notification to Selected Consultant:	September 24, 2021
Contract Execution:	September 30, 2021
RFP/RFQ Proposals Received by CRA	October 19, 2021, 2:00 p.m.
RFP/RFQ Proposals Forwarded for Financial Review	October 22, 2021
Submission of Draft Report to CRA Staff for Review	November 17, 2021
Submission of Final Report for 11/30/21 CRA Board Packet	November 22, 2021
Developer Presentation to CRA Board:	November 30, 2021, 5:30 p.m.
Developer Selection by CRA Board	December 14, 2021, 5:30 p.m.

*(Note: The dates offered above are subject to change – all parties will be notified by email of changes, if any.)*

## **8. PUBLIC RECORDS STATEMENT**

The CRA considers all information, documentation and other material submitted in response to this solicitation to be of non-confidential and or non-proprietary nature and therefore subject to public disclosure under Chapter 119 of the Florida Statutes.

## **9. QUESTIONS, CLARIFICATIONS, INTERPRETATIONS**

Questions and inquiries concerning the proposal and specifications of the ITQ shall be submitted in writing and directed to Ms. Thuy Shutt, Interim Executive Director, at [ShuttT@bbfl.us](mailto:ShuttT@bbfl.us), and must be received no later than **September 15, 2021, 5:00 p.m. (EST)**. All answers to questions, clarifications, and interpretations will be issued in the form of addenda. Oral explanations, information, and instructions shall not be considered binding on the CRA. All prospective respondents are encouraged to independently verify the accuracy of any information provided. Neither the CRA nor any of its agents or employees shall be responsible for the accuracy of any oral information provided to any respondent. Written responses to all written questions submitted shall be maintained in the CRA ITQ project file.

All such addenda issued by the CRA before the proposals are due, are part of the ITQ. It is the responsibility of all respondents to obtain, review, and respond to any and all addenda issued.

## **10. SUBMISSION DEADLINE**

Proposals shall be emailed to Thuy Shutt, [ShuttT@bbfl.us](mailto:ShuttT@bbfl.us), no later than **September 20, 2021, 5:00 p.m. (EST)**. Facsimile copies of the proposal **will not be accepted**. Proposals received after the deadline will not be considered.

## **11. SELECTION CRITERIA**

Proposals will be evaluated based on the following criteria:

- a. Demonstrated Experience
- b. Organizational Capability
- c. Proposed Costs & Fee Schedule

CRA staff will review each application according to established criteria. If a contract is awarded, it shall be awarded by written notice to the respondent whose proposal is determined to be in the best interest of the CRA, after consideration of all factors, including the contents of the submitted proposal.

## **12. INSURANCE REQUIREMENTS**

The successful respondent shall provide a certificate of insurance meeting the requirements of **Attachment “C,” Insurance Requirements**, prior to contract execution. The CRA reserves the right to ensure and require that the insurance coverages provided by the successful respondent are proper and that the insurers are licensed or otherwise qualified to do business in Florida. If at any time during the term of the contract the CRA determines that it is in its best interests to insist on an alternative insurance provider, it may do so and respondent (and subconsultants) agree to comply with the CRA's decision. The CRA also reserves the right to review, modify, or amend any required coverages, limits, and endorsements during the life of a contract and any extensions thereof. The CRA further reserves the right, but not the obligation, to review and reject any insurer providing coverage on the respondent's behalf because of the insurer's poor financial condition or due to the insurer's failure to operate legally in the State of Florida.

## **13. EXECUTION OF AGREEMENT**

Upon the selection of the successful respondent, the CRA will extend to said respondent an offer to enter into a consultant contract. The terms and conditions of the contract are subject to negotiations, but shall not deviate substantially from the qualifications, fees, and costs identified by the successful respondent in their proposal. The contract must be in a form approved by the CRA Board attorney and the CRA Board. A copy of the **Boynton Beach Community Redevelopment Agency Contractor Agreement** is included in this ITQ as **Attachment “D.”**

If for any reason a respondent and the CRA are unable to negotiate terms of the contract that are agreeable to both parties and execute the contract within five days of being provided a contract and a request to execute such contract, the CRA may in its sole and absolute discretion terminate negotiations with respondent and/or withdraw its offer of contract, and to move forward as it deems appropriate, which may include entering into contract negotiations with another respondent, ITQ re-issuance, or electing not to award a contract at all. If another respondent is awarded the contract, this award shall bind such respondent as though he/she/it were the original successful respondent.

## **14. CONTRACT DELIVERABLES**

One (1) original hardcopy of the Financial Review Report of the RFP/RFQ proposals and one (1) electronic copy in a format to be determined by the CRA. If selected, the successful respondent will be requested to present the report to the CRA at their November 30, 2021 and/or December 14, 2021 scheduled meeting.

## **15. NON-SCRUTINIZED ENTITY**

By submitting a proposal, respondent certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes, and is not engaged in a boycott of Israel.

## **16. E-VERIFY**

In any agreement resulting from this ITQ, the respondent will be required to warrant, for itself and its subcontractors, compliance with all federal immigration laws and regulations that relate to their employees. Respondent agrees and acknowledges that the CRA is a public employer that is subject to the E-verify requirements as set forth in Section 448.095, Florida Statutes, and that the provisions of F.S. Sec. 448.095 will apply to such an agreement.

***“This established the end of the main document”***

**ATTACHMENT "A"**

**RESPONDENT'S INFORMATION AND PAST PERFORMANCE**

Individual or Business Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

Mailing Address (if different): \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Telephone No. \_\_\_\_\_: Fax No: \_\_\_\_\_

Email Address of Contact Person: \_\_\_\_\_

Position/Title of Contact Person: \_\_\_\_\_

Ownership Status - Is the company currently for sale or involved in any transaction to expand or to be acquired by another business entity? If yes, please explain the impact to the organization and management efforts.

\_\_\_\_\_

Age of Organization – In continuous business since: \_\_\_\_\_

Leadership - List Corporate Officers, Principals, Partners or owners of your Organization with titles and addresses. If a publicly held company, list Chairman of the Board, CEO, and President:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Federal Identification No.: \_\_\_\_\_

State of Incorporation & Registration No.: \_\_\_\_\_

If not a corporation, explain your status:

\_\_\_\_\_

Legal History:

Has Respondent been involved with any litigation within the past four (4) years?

Yes       No

If Yes, list all civil and criminal legal actions using format below. Attach additional pages if necessary.

Case Number	Description	State	Disposition


Professional References:

Provide three (3) verifiable professional references within the last ten (10) years:

	<b>Contact Name/Company Address/Telephone/Email</b>	<b>Scope of Work/Contract Amount</b>	<b>Dates of Services</b>
1.			
2.			
3.			

**ATTACHMENT "B"**

**FEE SCHEDULE**

<b>Phase 1 - Evaluation of Development Proposal (Flat fee)</b>		<b>Amount (\$)</b>
1.	Cost for review of each individual development proposal	
2.	Cost for review of up to eight (8) development proposals	
3.	Preparation of report summarizing the evaluation for presentation to CRA Board	
4.	In-person or Virtual attendance at CRA meeting (based on COVID-19 advisories), cost per each meeting	
5.	Total Cost (Sum of Items 2 through 4)	
<b>Phase 2 - Additional Services (as needed)</b>		<b>Amount (\$)</b>
6.	Flat fee for negotiation assistance	
7.	As Needed Services (Hourly)	

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**ATTACHMENT “C”**

**INSURANCE REQUIREMENTS**

Without limiting any of the other obligations or liabilities of the respondent, the respondent shall, at his/her/its own expense, provide and maintain in force, until all of its services to be performed under the Standard Form of Agreement have been completed and accepted by the CRA (or for such duration as it otherwise specified herein), the following insurance coverages:

- A. Worker’s Compensation Insurance to apply to all of the respondent’s employees in compliance with the “Worker’s Compensation Law” of the State of Florida and all applicable Federal Laws.  
Employer’s Liability with limits of \$100,000 per person, \$500,000 per occurrence and \$100,000 per each disease.
  
- B. Comprehensive General Liability with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and \$1,000,000 minimum Property Damage Liability. Additionally, coverage shall also include \$1,000,000 aggregate on products and completed operations; \$2,000,000 general aggregate.

Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements other than ISO Endorsement GL 21 06, as Filed by the Insurance Services Office and must include:

- 1. Premises and/or Operations
- 2. Independent Contractors
- 3. Broad form Contractual Coverage applicable to this specific contract, including any hold harmless and/or indemnification agreement.
- 4. Personal Injury Coverage with employee and contractual exclusions removed.

- C. Business Automobile Liability with minimum limits of three hundred thousand dollars (\$300,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:
  - 1. Owned Vehicles
  - 2. Hired and Non-Owned Vehicles
  - 3. Employers’ Non-Ownership

- D. Professional Liability Insurance with minimum limits per occurrence applicable to CRA projects as follows:

	<u>Contract Cost Range</u>	<u>Limit</u>
1.	\$0 - \$99,000	\$ 250,000
2.	\$100,000 - \$299,000	\$ 500,000
3.	\$300,000 - \$499,000	\$ 750,000
4.	\$500,000 – Above	\$1,000,000

Coverage shall be afforded on a form acceptable to the CRA. Respondent shall insure that subcontractors used for any portion of the project maintain adequate levels of Professional Liability Insurance.

- E. The CRA shall be named as an additional insured on the respondent’s policies and a waiver of subrogation shall be provided for all policies except for professional liability and worker’s compensation.  
Boynton Beach Community Redevelopment Agency  
100 E. Ocean Avenue, 4<sup>th</sup> Floor  
Boynton Beach, FL 33435



**ATTACHMENT "D"**

**BOYNTON BEACH COMMUNITY REDEVELOPMENT AGENCY  
CONTRACTOR AGREEMENT**

This Contractor Agreement (hereinafter "Agreement") is made by and between \_\_\_\_\_ (hereinafter the "Contractor") and the **Boynton Beach Community Redevelopment Agency**, a municipal corporation located at 100 E. Ocean Avenue, 4<sup>th</sup> Floor, Boynton Beach, Florida 33435 (hereinafter the "CRA") (collectively the "parties").

In consideration of the mutual covenants and promises set forth herein, the sufficiency of which both parties acknowledge, the parties agree as follows:

**1) Notice and Contact.**

Contact Person for the Contractor: \_\_\_\_\_  
Business Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Contact Person for CRA (hereinafter "Project Manager"):

Name: Thuy T. Shutt  
Address: 100 E. Ocean Avenue, 4<sup>th</sup> Floor, Boynton Beach, FL 33435  
Email Address: ShuttT@bbfl.us  
Telephone Number: (561) 600-9098

Whenever either Party desires to give notice to the other, such notice must be in writing and sent by United States mail, return receipt requested, courier, evidenced by a delivery receipt, or by overnight express delivery service, evidenced by a delivery receipt, addressed to the Party for whom it is intended at the place last specified; and the place for giving of notice shall remain until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the persons listed above as the respective places for giving of notice.

**2) Description of Contractor Services:**

The Contractor will perform the services as described in the Scope of Work (attached hereto as Exhibit "A" and hereby incorporated herein), and Fee Schedule (attached hereto as Exhibit "B" and hereby incorporated herein). The CRA may make additions, deletions, or other changes the Scope of Work at any time. Any additions to the Scope of Work will be consistent with the *Invitation to Quote (ITQ) to Provide Financial Analysis for the 115 N. Federal Highway Infill Mixed-Use Redevelopment Project* issued by the CRA on August 30, 2021 and Contract's Proposed Fee Schedule (Exhibit "B"). The obligations of the Contractor described in this paragraph shall be referred to in this Agreement as the "Contractor Services." In the event of a conflict between Fee Schedule (Exhibit "B") and another term in this Agreement, the terms outside of Proposed Fee Schedule shall control.

**3) Effective Date; Termination; Approximate Length of Contractor Services.**

This Agreement will become effective at the date and time that the last party signs this Agreement ("Effective Date"). This Agreement will automatically terminate one year after the Effective Date, or after the performance of all the Contractor Services and final payment by the CRA, whichever occurs later. Nothing in this paragraph shall be construed so as to affect the CRA's right to cancel or postpone the Contractor Services pursuant to this Agreement.

**4) Compensation.** The CRA shall pay the Contractor for the performance of the Contractor Services in an amount not to exceed \_\_\_\_\_ and 00/100 Dollars (\$\_\_\_\_\_.00) for the Boynton Beach CRA

Financial Analysis of the 115 N. Federal Highway Infill Mixed-Use Redevelopment Project as described in the Scope of Work, attached hereto as Exhibit "A". Payment for each service shall not exceed the amount described for each individual task in Exhibit "B". Additional services as described in Paragraph 2, Scope of Work – Phase 2, in Exhibit "A" shall be provided at a rate of \_\_\_\_\_ and 00/100 Dollars (\$\_\_.00) per hour. Consultant shall provide the CRA with a cost estimate for each additional service provided at the hourly rate. Written approval from the CRA shall be required prior to commencement of any additional services. The compensation described in this paragraph shall be referred to in this agreement as the "Compensation." In the event of additions, deletions, or other changes to the Scope of Work as described in Paragraph 2 of this Agreement, the amount of Compensation may be adjusted, but the hourly rate of \_\_\_\_ and 00/100 Dollars (\$\_\_.00) per hour shall not be adjusted without an amendment to this Agreement.

- 5) Form of Payment of Compensation.** All payments of Compensation shall be made in the form of a CRA check made payable to: \_\_\_\_\_. The final payment shall be made within 30 days after submittal of an invoice for Contractor Services and all Contract Documents (as required under paragraph 19) CRA to Own Materials), in accordance with the Local Government Prompt Payment Act, Section 218.70, et al., Florida Statutes. No payment made under this Agreement shall be conclusive evidence of the performance of this Agreement by the Contractor, either wholly or in part, and no Payment shall be construed to be an acceptance of or to relieve the Contractor of liability for the faulty or incomplete rendition of the Contractor Services.
- 6) Personnel.** Contractor represents that Contractor has, or will secure, all necessary personnel required to perform the Contractor Services under this Agreement. Such personnel shall not be employees of, or have any contractual relationship with, the CRA. All of the Contractor Services shall be performed by the Contractor, or under Contractor's supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, licensed or permitted under state and local law to perform such Contractor Services. Contractor warrants that all Contractor Services shall be performed by skilled and competent personnel in accordance with all applicable federal, state, and local professional and technical standards.
- 7) Subcontractors.** Future addition or replacement of Subcontractors may be allowed subject to approval of the Project Manager. The Contractor agrees that he is as fully responsible to the CRA for the acts and omission of his subcontractors and of persons either directly or indirectly employed by them, as he/she/it is for the acts and omissions of persons directly employed by them. Nothing contained in the Contract shall create any contractual relation between any subcontractor and the CRA.
- 8) Cancellation.** The CRA reserves the right to cancel or postpone the performance of the Contractor Services or terminate this Agreement for any reason. The CRA shall not be liable to Contractor for payment for any Contractor Services not yet rendered, but shall be liable for payment of goods received and accepted by the CRA and Contractor Services rendered and accepted by the CRA prior to the date of notice of cancellation.
- 9) Default.** The failure of the Contractor to comply with the provisions set forth in this Agreement shall constitute a default and breach of this Agreement. If the Contractor fails to cure the default within seven (7) days of notice from the CRA or prior to the next event for which Contractor Services are anticipated, whichever is sooner, the CRA may terminate this Agreement and refuse payment of compensation accordingly. The CRA may, at its option, substitute another contractor for Contractor in the event Contractor defaults on and breaches this Agreement. Nothing in this paragraph shall be construed as a limitation on any damages the CRA may incur or is entitled to as a result of Contractor's breach or default. If the CRA breaches the Agreement, the CRA shall have seven (7) days from the receipt of written notice of such breach to cure the breach.
- 10) Waiver.** The CRA shall not be responsible for any property damages or personal injury sustained by the Contractor from any cause whatsoever related to the Contractor Services of this Agreement, whether such damage or injury occurs before, during, or after the performance of the Contractor Services. The Contractor hereby forever waives, discharges, and releases the CRA, its agents, and its employees, to the fullest extent the law allows, from any liability for any damage or injury sustained by the Contractor.
- 11) Indemnification.** The Contractor shall indemnify, save, and hold harmless the CRA, its agents, and its employees from any liability, claim, demand, suit, loss, cost, expense or damage which may be asserted, claimed, or recovered against or from the CRA, its agents, or its employees, by reason of any property damages or personal injury, including death, sustained by any person whomsoever, which damage is incidental to, occurs

as a result of, arises out of, or is otherwise related to the negligent or wrongful conduct or the faulty equipment (including equipment installation and removal) of the Contractor. Nothing in this Agreement shall be deemed to affect the rights, privileges, and sovereign immunities of the CRA as set forth in Section 768.28, Florida Statutes. This paragraph shall not be construed to require Contractor to indemnify the CRA for its own negligence, or intentional acts of the CRA, its agents or employees. Each party assumes the risk of personal injury and property damage attributable to the acts or omissions of that party and its officers, employees and agents.

- 12) No Transfer.** The Contractor shall not subcontract, assign, or otherwise transfer this Agreement to any individual, group, agency, government, non-profit or for-profit corporation, or other entity without express, written, prior permission from the CRA.
- 13) Time is of the Essence.** The parties acknowledge that time is of the essence in the performance of the provisions in this Agreement.
- 14) Insurance.** The Contractor shall obtain all insurance required by the CRA and provide proof thereof at least 7 days prior to the performance of the Contractor Services, and include, along with an executed copy of this Agreement, a Certificate of Insurance ("COI"). Insurance requirements may be found in "Attachment C," which is hereby incorporated herein. The Insurance must remain in force for so long as is necessary to cover any occurrence relating to, resulting from, or arising out of the Contractor Services or this Agreement. The CRA is to be included as "Additional Insured" with respect to liability arising out of services performed by the Contractor by or on behalf of the CRA or acts or omission of the Contractor in connection with providing Contractor Services pursuant to this Agreement. The Certificate must include the following additional insured language:

**Boynton Beach Community Redevelopment Agency  
100 E. Ocean Avenue, 4<sup>th</sup> Floor  
Boynton Beach, Florida 33435**

- 15) Tax Forms.** The Contractor shall provide the CRA with completed W-9 forms in order receive Payment. The CRA shall provide the Contractor with an IRS Form 1099 where required under law. The Contractor further acknowledges that the CRA is neither paying Social Security benefits nor withholding taxes from the Contractor's compensation for the Contractor Services. The Contractor assumes all liability and responsibility for payment of the Contractor's (and the Contractor's individual members) own FICA and Social Security benefits and all taxes resulting from this Agreement.
- 16) No Discrimination.** The Contractor shall not discriminate against any person on the basis of race, color, religion, ancestry, national origin, age, sex, marital status, familial status, gender identity, gender expression, sexual orientation or disability for any reason in its hiring or contracting practices associated with this Agreement.
- 17) CRA to Own Materials.** The Contractor agrees that the CRA shall be the owner of all materials and other documents created by the Contractor on behalf of the CRA as part of its performance of the Contractor Services. Any and all documents, videos, audio files, files, reports, programs, developments and innovations, whether written or electronic, which are developed, maintained, utilized or conceived by Contractor during the term of this Agreement and in the course of the performance of Contractor Services hereunder ("Contract Documents") shall be the exclusive property of the CRA and shall be submitted to the CRA along with the final invoice in a format acceptable to the CRA; and Contractor hereby assigns all right, title and interest in same Contract Documents to the CRA.
- 18) No Partnership, Etc.** The Contractor agrees nothing contained in this Agreement shall be deemed or construed as creating a partnership, joint venture, or employee relationship. It is specifically understood that the Contractor is an (a) independent Contractor(s) and that no employer/employee or principal/agent is or shall be created nor shall exist by reason of this Agreement or the performance of Contractor Services; and that Contractor is an independent contractor and not an employee of the CRA for all purposes including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Worker's Compensation Act, and the State Unemployment Insurance Law. The Contractor will exercise its own judgment in matters of safety for itself and its employees and subcontractors. The Contractor attests that all personnel that will be performing the Contractor Services are covered under a current personal accident and/or personal health insurance policy.

- 19) No Infringement.** The Contractor represents that in performing the Contractor Services under this Agreement, the Contractor will not infringe on the property right, copyright, patent right or any other right of anyone else; and if any suit is brought or a claim made by anyone that anything in conjunction with the ownership or the presentation of said Contractor or appearance as part of the Contractor Services is an infringement on the property right, copyright, patent right, or other rights, the Contractor will indemnify the CRA against any and all loss, damages, costs, attorney fees or other loss whatsoever. The Contractor shall not use the CRA's logos, or marks without the CRA's prior written approval.
- 20) Entire Agreement.** This Agreement represents the entire and sole agreement and understanding between the parties concerning the subject matter expressed herein. No terms herein may be altered, except in writing and then only if signed by all the parties hereto. All prior and contemporaneous agreements, understandings, communications, conditions or representations, of any kind or nature, oral or written, concerning the subject matter expressed herein, are merged into this Agreement and the terms of this Agreement supersede all such other agreements. No extraneous information may be used to alter the terms of this Agreement.
- 21) Counterparts and Transmission.** To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The executed signature page(s) from each original may be joined together and attached to one such original and it shall constitute one and the same instrument. In addition, said counterparts may be transmitted electronically (i.e., via facsimile or .pdf format document sent via electronic mail), which transmitted document shall be deemed an original document for all purposes hereunder.
- 22) Agreement Deemed to be Drafted Jointly.** This Agreement shall be deemed to be drafted jointly and shall not be construed more or less favorably towards any of the parties by virtue of the fact that one party or its attorney drafted all or any part thereof. Any ambiguity found to exist shall be resolved by construing the terms of this Agreement fairly and reasonably in accordance with the purpose of this Agreement.
- 23) Governing Law, Jurisdiction, and Venue.** The terms and provisions of this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida and the United States of America, without regard to conflict of law principles. Venue and jurisdiction shall be Palm Beach County, Florida, for all purposes, to which the parties expressly agree and submit.
- 24) Independent Advice.** The parties declare that the terms of this Agreement have been read and are fully understood. The parties understand that this is a binding legal document, and each party is advised to seek independent legal advice in connection with the matters referenced herein.
- 25) Severability.** If any part of this Agreement shall be declared unlawful or invalid, the remainder of the Agreement will continue to be binding upon the parties. To that end, this Agreement is declared severable.
- 26) Voluntary Waiver of Provisions.** The CRA may, in its sole and absolute discretion, waive any requirement of the Contractor contained in this Agreement. No waiver by the CRA shall be deemed a continuing waiver unless expressly stated in writing, and no action or inaction by the CRA shall be deemed a waiver. All waivers by the CRA must be expressly stated in writing. The Contractor may waive any requirements of the CRA contained in this Agreement.
- 27) Public Records.** The CRA is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:
- a. Keep and maintain public records required by the CRA to perform the Contractor Services described in this Agreement.
  - b. Upon request from the CRA's custodian of public records, provide the CRA with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
  - c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the CRA.
  - d. Upon completion of the contract, transfer, at no cost, to the CRA all public records in possession of the Contractor or keep and maintain public records required by the CRA to perform the service. If the Contractor transfers all public records to the CRA upon completion of the contract, the Contractor shall destroy any

duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CRA, upon request from the CRA's custodian of public records, in a format that is compatible with the information technology systems of the CRA.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561)737-3256; 100 E. Ocean Avenue, 4<sup>th</sup> Floor, Boynton Beach, Florida 33435; or [ShuttT@bbfl.us](mailto:ShuttT@bbfl.us).**

The Contractor also understands that CRA may disclose any document in connection with performance of the Contractor Services or this Agreement, so long as the document is not exempt or confidential and exempt from public records requirements.

**28) Agent.** If this Agreement is signed by the Contractor's agent, the agent warrants that he/she is duly authorized to act on behalf of the Contractor, that he/she is authorized to enter into this Agreement, and that the agent and Contractor are jointly and severally liable for any breach of this Agreement.

**29) Propriety.** Contractor understands that it is creating material for a public agency that will be displayed to a public audience, and while performing the Contractor Services shall refrain from creating or delivering products that contain vulgar, obscene, profane, or otherwise objectionable imagery or language that, as determined in the sole discretion of the CRA, frustrates the intended use of the product. The CRA has sole and absolute discretion as to the content and propriety of the Contractor Services and may deem certain content inappropriate for the CRA's intended use. The Contractor shall have exclusive control of the Contractor Services provided by the Contractor, including the method, manner, and means of executing the Contractor Services.

**30) Limitation of liability.** To the extent permitted by law, the CRA's liability for all matters that occur as a result of, arise out of, or are otherwise related to this Agreement, including negligent, grossly negligent, or willful misconduct or omission, shall be limited to the amount of Compensation or the direct out-of-pocket damages actually incurred, whichever is less.

**31) Funding.** This Agreement is expressly conditioned upon the availability of funds lawfully appropriated and available for the purposes set out herein as determined in the sole discretion of the CRA. In the event funds to finance this Agreement become unavailable, the CRA may terminate this Agreement upon no less than twenty-four (24) hours' notice to Consultant. The CRA shall be the sole and final authority as to the availability of funds. The CRA shall pay Consultant for goods received or services rendered prior to the date of termination.

**32) Force Majeure.** Neither party shall be deemed to be in breach of this Agreement if either party is prevented from performing any obligations required of it by reason of boycotts, shortages of materials, labor disputes, embargoes, acts of God, epidemic, pandemic, acts of public enemy, acts of superior governmental authority, floods, riots, foreign or civil wars, rebellion, terrorism, sabotage by third parties, or any other similar circumstances for which it is not reasonably responsible and which are not within its control.

**33) Attorney's Fees.** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, each party shall be responsible for its own attorneys' fees and costs.

**34) Compliance with Laws.** In the performance of the Contractor Services under this Agreement, the Contractor shall comply in all material respects with all applicable federal and state laws and regulations and all applicable Palm Beach County, City of Boynton Beach, and CRA ordinances and regulations, including ethics and procurement requirements.

**35) E-Verify.** Contractor warrants for itself and its subcontractors that Contractor and all subcontractors are in compliance with all federal immigration laws and regulations that relate to their employees. The Contractor agrees and acknowledges that the CRA is a public employer that is subject to the E-verify requirements as set forth in Section 448.095, Florida Statutes, and that the provisions of F.S. Sec. 448.095 apply to this Contract. Notwithstanding any other provisions in this Agreement, if the CRA has a good faith belief that

Contractor has knowingly hired, recruited or referred an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States for employment under this contract, the CRA shall terminate the contract. If the CRA that has a good faith belief that a subcontractor knowingly hired, recruited or referred an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States for employment under this Contract, the CRA shall promptly notify Contractor and order Contractor to immediately terminate the contract with the subcontractor. Contractor shall be liable for any additional costs incurred by the CRA as a result of the termination of a contract based on Contractor's failure to comply with E-verify requirements referenced herein.

**36) Non-Scrutinized Company.** Contractor hereby certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes, and is not engaged in a boycott of Israel. If the CRA determines that this certification is falsified or contains false statements, or that Contractor is placed Scrutinized Companies that Boycott Israel List or engages in a boycott of Israel after the execution of the Agreement, the CRA may terminate the Agreement.

**37) Agreement Non-Exclusive.** Contractor shall be free to contract for similar services to be performed for other entities or persons while under contract with the CRA. The provision of services provided for herein is non-exclusive. The CRA in its sole and absolute discretion may retain additional entities or persons to perform the same or similar work

**38) Electronic Signatures.** The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement.

**39) Survival.** The provisions of this Agreement regarding infringement, indemnity, waiver, insurance, agents, and cancellation shall survive the expiration or termination of this Agreement and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year written below.

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Authorized Representative for Contractor**

Print Name: \_\_\_\_\_

Witness: \_\_\_\_\_

Witness Name: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Authorized Representative for CRA**

Print Name: \_\_\_\_\_

Witness: \_\_\_\_\_

Witness Name: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT "A"**

### **SCOPE OF WORK**

#### **Phase 1 - Evaluation of Development Proposal(s)**

The scope of the work in Phase 1 includes a financial analysis of the development proposals in accordance with the Evaluation and Selection Criteria and provide recommendations to the CRA at its November 30, 2021 and December 14, 2021 Board meetings. Specific tasks include the following:

1. Review of initial proposal and other background material provided by the CRA
2. Confer with CRA regarding its objectives, capabilities, concerns, and parameters for the project and evaluation
3. Identify additional information to be requested of the proposers
4. Review such information for reasonableness, which may entail research and outreach to sources in the local real estate market and other appropriate parties
5. Evaluate qualifications of the developer, to the extent not done by the CRA
6. Evaluate the proposal's potential feasibility, net financial effect on the CRA and City, risk and other relevant implications
7. Coordinate with CRA and other relevant parties to support the above tasks
8. Participate in team meetings, as needed, in preparations to CRA Board
9. Prepare report summarizing the evaluation for presentation to CRA Board
10. Such other services as may be agreed to be appropriate to perform the work

#### **Phase 2 – Additional Services Negotiation Assistance**

Additional services may also include assisting in the negotiation of business terms for disposition and possibly other forms of assistance for gap financing with a developer resulting from the previously mentioned solicitation process. Assistance in this phase consists of understanding what the developer realistically can and cannot live with in terms of securing project financing and how variations in transaction terms redistribute value and risk between the transaction participants. The selected respondent will assist in finding creative ways to capitalize on the parties' objectives and will likely take the form of:

1. Formulate transaction structuring options
2. Perform financial analysis of such options or revised developer proposals
3. Lead or assist CRA in negotiation of business terms
4. Participate in drafting/review of proposals and term sheets of major business terms
5. Participate with CRA staff and attorney in documentation (review and/or drafting of relevant business terms) of legal agreements to ensure business terms are effectively locked in
6. Prepare memoranda or such other materials as may facilitate negotiation, decision-making, and communication
7. Participate in team meetings and presentation to CRA Board
8. Such other services as may be agreed to be appropriate to perform the work

**EXHIBIT "B"**

**FEE SCHEDULE (TO BE INSERTED)**



**EXHIBIT "C"**

**INSURANCE REQUIREMENTS**

A. Worker's Compensation Insurance to apply to all of the Contractor's employees in compliance with the "Worker's Compensation Law" of the State of Florida and all applicable Federal Laws.

Employer's Liability with limits of \$100,000 per person, \$500,000 per occurrence and \$100,000 per each disease.

B. Comprehensive General Liability with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and \$1,000,000 minimum Property Damage Liability. Additionally, coverage shall also include \$1,000,000 aggregate on products and completed operations; \$2,000,000 general aggregate.

Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements other than ISO Endorsement GL 21 06, as Filed by the Insurance Services Office and must include:

1. Premises and/or Operations
2. Independent Contractors
3. Broad form Contractual Coverage applicable to this specific contract, including any hold harmless and/or indemnification agreement.
4. Personal Injury Coverage with employee and contractual exclusions removed.

C. Business Automobile Liability with minimum limits of three hundred thousand dollars (\$300,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

1. Owned Vehicles
2. Hired and Non-Owned Vehicles
3. Employers' Non-Ownership

D. Professional Liability Insurance with minimum limits per occurrence applicable to CRA projects as follows:

	<u>Contract Cost Range</u>	<u>Limit</u>
1.	\$0 - \$99,000	\$ 250,000
2.	\$100,000 - \$299,000	\$ 500,000
3.	\$300,000 - \$499,000	\$ 750,000
4.	\$500,000 – Above	\$1,000,000

Coverage shall be afforded on a form acceptable to the CRA. Contractor shall insure that subcontractors used for any portion of the project, maintain adequate levels of Professional Liability Insurance.

E. The CRA shall be named as an additional insured on the Contractor's policies and a waiver of subrogation shall be provided for all policies except for Professional Liability and Worker's Compensation.

Boynton Beach Community Redevelopment Agency  
100 E. Ocean Avenue, 4<sup>th</sup> Floor  
Boynton Beach, FL 33435