

SUPPORT FOR THE REDEVELOPMENT OF SITES OWNED BY THE CITY OF CLEARWATER

This agreement made and entered into as of the 9th day of July, 2019 by and between the City of Clearwater ("Client"), and HR&A Advisors, Inc., a corporation organized and existing under the laws of the State of New York ("Consultant"), who agree and contract as follows:

WITNESSETH THAT:

WHEREAS, Client desires to implement key recommendations from its master plan for the Bluff/Waterfront district of Downtown Clearwater, and

WHEREAS, Client desires to retain the Consultant to support the engagement of developer partners to implement the vertical development recommended in said master plan;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Contracting of the Consultant
Client hereby agrees to contract with Consultant, and the Consultant hereby agrees to perform services set forth hereinafter in accordance with the terms and conditions set forth herein.
2. Term of Contract Services performed outside of the Scope of Services
Consultant services for the scope of work set forth hereinafter will be completed by 6/30/2020, subject to modification by mutual agreement by the parties hereto.
3. Scope of Services
The Consultant agrees to satisfactorily render and provide services hereinafter set forth in "Exhibit A, Scope of Services."
4. Disposition of Work Materials
Upon prompt payment of all sums due under this Agreement, all contract documents and similar work materials prepared by the Consultant in completing the scope of services shall be the property of Client. Notwithstanding any other provision to the contrary, the Consultant shall maintain copyright ownership of photographs and of all notes, terms and standard details included in all project-related documents, models, photographs, and other forms of expression created by the Consultant. Only with Client's prior written approval may Consultant use and reproduce its deliverables. The Consultant shall be permitted to retain copies of its deliverables and work product for its records and for its future professional endeavors, so long as Client is not specifically mentioned or utilized to promote such future professional endeavors. The Consultant grants Client a non-exclusive license to use and reproduce such models, photographs, and other forms of expressions created by the Consultant as long as payments due to the Consultant under this contract are made as provided herein.
5. Personnel
The Consultant represents that it has, or will secure, at its own expense, all personnel or subconsultants required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with Client. All of the services required hereunder will be performed by the Consultant or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under State, federal and local law to perform such services.
6. Termination and Suspension for Cause
If, for any cause, the Consultant or Client shall fail to fulfill in a timely manner their obligations under this Agreement, or if the Consultant or Client shall violate any of the covenants, agreements, or stipulations of this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice. The Consultant shall be entitled to receive just and equitable compensation for work performed and expenses incurred as of the date of termination; likewise, Client shall be entitled to ownership of all documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Consultant under this Agreement for which it has compensated the Consultant.

If Client fails to make payments to the Consultant in accordance with this Agreement, in addition to the right of termination of this Agreement as set forth herein, at the Consultant's option and upon written notice to Client, it may suspend some or all performance of services under this Agreement and retain all Contract Documents and Work Materials for which payment is outstanding. In the event of a suspension of some or all services, retention of Contract Documents and Work Materials and/or the termination of the Agreement by the Consultant, the Consultant shall have no liability to Client for delay or damage caused Client because of such suspension of services. Before resuming services, the Consultant shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Consultant's services. The decision by the Consultant not to cease or suspend services or any portion thereof, or the decision by the Consultant to suspend certain but not all services under this Agreement shall not constitute a waiver of its right to suspend or terminate performance of any or all services under this Agreement so long as payments of undisputed amounts remain outstanding.

7. Changes

Client or Consultant may, from time to time, request changes in the terms of this Agreement. Such changes, including any increase or decrease in the amount of compensation due to the Consultant, shall be mutually agreed upon by the parties hereto and shall be executed and incorporated in written amendments to this Agreement.

8. Compensation

The cost of Tasks 1-4 as described in the Scope of Services shall not exceed \$100,000 in labor costs, plus reimbursements for any expenses incurred at cost. The cost of services for Task 1-4 will be invoiced by the Consultant on a percent completion basis each month. For Phase II's Tasks 5 and 6, as well as any services performed outside of the Scope of Services, HR&A will invoice the City based on the hourly rates established below in "Consultant Hourly Rates" and will include requests for reimbursement of expenses incurred by the Consultant at cost. Client shall remit payment for an approved invoice within 30 days of receipt of the invoice provided all work is performed satisfactorily as reasonably determined by Client.

9. Equal Employment Opportunity

The Consultant will not discriminate against any employee or applicant for employment with regard to race, religion, sex, color, national origin, age, sexual orientation, gender identity or disability. The Consultant will act to ensure that applicants are employed, and that employees are treated during employment, without regard to race, religion, sex, color, national origin, age sexual orientation, gender identity or disability.

10. Assignability

The Consultant shall not assign any interest in this Agreement and shall not transfer any interest in the same, whether by assignment or notation without the prior written consent of Client thereto; provided, however, that claims for money may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly by Client.

11. Conditions and Assurances

- A. Access to Records: Consultant agrees that Client or any of its duly authorized representatives shall have access to any books, documents, papers, and records of the Consultant for the purposes of making audit, examination, excerpt, and transcripts.
- B. Retention of Records: The Consultant will be required to comply with Section 119.0701, Florida Statutes, specifically to:
 - i. Keep and maintain public records required by the City of Clearwater to perform the service;
 - ii. Upon request from the City's Custodian of Records, provide the City of Clearwater 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 or as otherwise provided by law;

- iii. 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 to the City of Clearwater; and
- iv. Upon completion of the contract and upon request by the City, transfer to the City of Clearwater all project-related public records in possession of the contractor or keep and maintain public records required by the City of Clearwater to perform the service. If the Consultant transfers all public records to the City of Clearwater upon completion of the contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City of Clearwater, upon request from the City of Clearwater's Custodian of Public Records, in a format that is compatible with the information technology systems of the City of Clearwater.
- v. Consultant time associated with the delivery of public records shall be billable based on the hourly rates contained within this contract.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, ROSEMARIE CALL AT 727-562-4090, rosemarie.call@myclearwater.com, and/or 112 S. Osceola Ave., Clearwater, FL, 33617

12. Miscellaneous Provisions

- A. This Agreement shall be construed in accordance with the laws of the State of Florida, and venue for any dispute pertaining to this Agreement shall be in Pinellas County, Florida.
- B. In case one or more of the provisions in the Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such as invalidity, illegality, or non-enforceability, it shall not affect any other provision thereof, and this Agreement shall not be effective unless consented to, in writing, by both parties.
- C. Nothing contained herein shall be deemed by the parties hereto, nor any third parties, as creating the relationship of principal and agent, employer and employee, or as a partnership or joint venture between the parties. Consultant is the City's independent contractor, and nothing contained herein is intended to create any relationship other than that between the parties.
- D. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.
- E. This Agreement shall be binding upon and inure to the benefit of each of the Consultant's and the Client's respective successors and assigns.

13. Indemnification


- A. Consultant shall indemnify, defend and hold harmless Client and its officers, employees, agents and permitted assigns from and against any and all suits, claims, losses, damages, charges, or expenses, whether direct or indirect, and liability of every name and nature to which they or any of them may be put or subjected by reason of any personal injury or damage to real or tangible property arising from or in connection with any acts or omissions on the part of the Consultant or arising from any breach by Consultant under this Agreement.
- B. Subject to Florida statutory limits on sovereign immunity, the City agrees to indemnify the Consultant and its officers, employees, agents, and permitted assigns from and against liability or expenses incurred on account of the negligent acts of the City, its employees, servants, or agents in relation to this Agreement. Nothing contained herein, however, shall

be construed as a waiver of or limitation of liability that the City may be entitled to under section 768.28, Florida Statutes.


In no event shall any officer, shareholder, member, employee or agent of Consultant or Client (or any of Consultant's or Client's affiliates) be personally liable for the performance of either party's obligations hereunder.

IN WITNESS WHEREOF, the City of Clearwater and the Consultant have executed this Agreement on this the ____ day of _____, 2019.

HR&A Advisors, Inc.


Cary Hirschstein, Partner

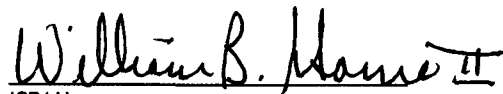
7/2/19
Date


ATTEST

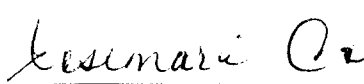
IN WITNESS WHEREOF, the parties to the agreement have hereunto set their hands and seals and have executed this Agreement, the day and year first above written.

**CITY OF CLEARWATER
IN PINELLAS COUNTY, FLORIDA**

By:

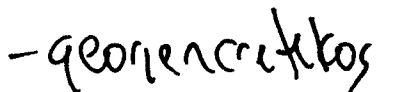

(SEAL)
William B. Horne, II,
City Manager

Attest:



Rosemarie Call,
City Clerk



Countersigned:


George N. Cretekos,
Mayor

Approved as to form:


Pam Akin,
City Attorney

7/9/19
Date

SCOPE OF WORK

HR&A anticipates that meeting the City's objectives will require two phases of work:

- **Phase 1:** A high-level market scan to understand recent real estate activity, particularly absorption of multifamily residential and associated ground-floor retail development; developer engagement to inform the City's market understanding and begin to raise awareness about the opportunity; and the development of a compelling solicitation document for the current site of the Harborview Center.
- **Phase 2:** Support in the launch and management of the solicitation; the evaluation of responses and support in negotiations with one or more developers; and the development of materials supporting the referendum/referenda.

As part of this assignment, we assume that we will collaborate with an architectural firm, whose main task would be the development of massings of building forms to allow for the testing of various redevelopment scenarios, potentially including the delineation of a building envelope, design guidelines, and illustrative renderings to support the solicitation and/or referendum/referenda. Per our conversation, this firm will be selected in consultation with the City, and we have not designated a detailed design scope or budget here within our proposal.

Phase 1: Market Reconnaissance and Solicitation Drafting

Task 1. Project Reconnaissance & Kickoff

- 1.1 Project Reconnaissance: Upon receiving notice to proceed, HR&A will arrange a call with the City team to discuss its objectives and desired outcomes for the redevelopment of the Bluff sites. We will also begin to conduct initial project reconnaissance, including reviewing publicly-available property information on the three City sites, past and present development proposals for these sites and other adjacent sites, and any relevant City-led plans or recent regulatory actions that might impact the proposed development. During this period, HR&A will prepare a data request to obtain additional relevant information held by the City and not previously shared during the *Imagine Clearwater* master planning process, which may include previous appraisals and studies prepared regarding the sites, information around program and financial assumptions, including construction budgets, particularly related to infrastructure costs, and further detailed program information. We would also kick off work with the City's architect.

Deliverable: HR&A will provide a data request within one work week of project commencement.

Task 2. Market Scan & Feasibility Analysis

To underpin our analysis, HR&A will evaluate the market potential and feasibility for development on the three City sites. We will build on the previous market study completed by HR&A for *Imagine Clearwater* in order to maximize efficiency.

- 2.1 Market Scan and Data Update: HR&A will update our understanding of market conditions for uses identified as priorities by the City, namely multifamily residential and retail, gathering data for the most recent market metrics and trends in the metropolitan area and any potential impacts of the investments made to-date in Downtown Clearwater and relevant comparable markets on real estate values. We will utilize our team's past analysis of the local market as a foundation for this analysis,

but will also collect more recent data to inform assumptions on revenues and costs (both one-time and ongoing) related to the development of the three sites. We will rely on data provided by third-party sources such as ESRI Business Analyst (drawing from Census data) for demographic data, Zillow (or equivalent) for residential data, and CoStar for retail data, among others. We will supplement this data with information provided by the City, as well as primary data from market reports and outreach to local brokers and developers, as needed.

- 2.2 *Developer and Stakeholder Engagement Trip:* HR&A will work with the City team to begin engaging a shortlist of local and regional developers with experience in delivering high-quality mixed-use projects. We will develop a list of promising firms and travel to Clearwater to meet with representatives to gather market information to supplement the data collected through Task 2.1, gauge interest in the three City sites, outline core considerations that inform project opportunity and risk, and begin to raise awareness of future solicitation(s). During this trip, we will also meet with additional stakeholders and the client team in Clearwater and will share the outcome of our outreach meetings during a wrap-up discussion with the City and key stakeholders, if desired.
- 2.3 *Architect Engagement:* HR&A will share the results of the market scan with the architectural team to inform their development of basic site massings and development scenarios for the City sites. HR&A will work with the team to refine these diagrams for inclusion in the final solicitation.
- 2.4 *Webinar: Development Scenarios:* HR&A will conduct a webinar to brief the City client team on our market scan and developer engagement meetings, and recommend a series of scenarios and key variables to be studied under the Task 2.5 financial feasibility analysis.
- 2.5 *Financial Feasibility Model and Gap Analysis:* Based on the financial assumptions developed during our market scan, we will build a multi-year cash flow model to evaluate the financial feasibility of development on the three City sites and test the effect of key variables on feasibility and project value. Several scenarios will be evaluated based on density of development and the horizontal costs that the developer must bear to deliver a physically-feasible project.¹ HR&A will work with the City team to determine the most critical variables to test within the model.

HR&A's will create a dynamic pro forma to test key variables and demonstrate the project's redevelopment feasibility (or financial gap). Key variables may include those items described above, as well as the type and number of residential units, type and square footage of any ground-floor commercial uses, cost assumptions, phasing, assumed profit margin, or others. The pro forma will project the value of land under different redevelopment scenarios, an objective metric against which the City can later evaluate development proposals and proposed transaction terms. For budgeting purposes, we presume running no more than two scenarios per development site, if needed.

- 2.6 *Webinar: Findings Presentation:* HR&A will conduct a work session via web conference with the City to present the financial model's draft outputs and answer any questions as we move forward to Task 3.

Deliverable: Presentation summarizing findings from Task 2 analyses.

¹ The City may elect to hire a cost estimator to provide locally-sourced horizontal cost assumptions, particularly if the City team wishes to test specific development typologies not commonly found in Clearwater but desirable at these highly valuable sites – e.g., subterranean structured parking.

Task 3. RFP Document Development

Building off of the financial feasibility model and gap analysis developed in Task 2.4, which will be broadly applicable to all three City sites, in Task 3 HR&A will support the creation of a single Request for Proposals ("RFP") for development on the Harborview Center site, identified by the City team as a vital "first move" within the group of three sites. The City may choose to adapt this document for subsequent site disposition solicitations for the other three bluff sites

3.1 Referendum strategy: HR&A understands that any disposition of City property – and particularly of sites along the Osceola Avenue bluff – requires constituent approval via a voter referendum process. As part of developing a strategy for the disposition of the City's three Bluff sites, HR&A will facilitate a discussion with the City team on referendum/referenda strategy, in terms of timing with the disposition process and determination of whether the next referendum should address one or multiple sites.

3.2 Distribution list: Building on the list of regional developers targeted for outreach in Task 2, HR&A will work with the City team to develop a targeted distribution list for circulating the solicitation document.

3.3 Drafting key elements of the RFP documents: HR&A will support development of the key business terms and related content for an RFP. We will develop an outline of these sections for review with City staff, develop an initial draft of key RFP content, including the solicitation's goals, requested scope, terms, and evaluation criteria, and provide this to the City to be supplemented by the City's required forms, documents, and language. HR&A will coordinate with City staff to revise and refine this content as needed prior to release.

If exhibits are needed to define the opportunity or provide existing condition information to potential respondents, HR&A will advise on the most compelling and clear presentation of these materials, aimed at eliciting a strong response from the market, and coordinate with the City and other consultants to produce exhibits for inclusion in the RFP. As mentioned previously, we assume that the City's architect will develop illustrative massings for the sites that are in line with the City's objectives, identify comparable developments to be presented to prospective developers, outline core design guidelines and, as deemed necessary, provide illustrative renderings.

3.4 RFP approval support: As needed, HR&A will support the City in preparing for review by key City staff. HR&A will review consolidated comments from the City team and commit to making up to two rounds of RFP language revisions.

Deliverables By the end of Task 3, HR&A will deliver RFP scope language, evaluation criteria, and solicitation process information for inclusion in a solicitation document for release to the public upon completion of this task.

Task 4. Pre-Response Submission Support

To support City staff's preparation for receipt of responses, HR&A will conduct the following tasks.

4.1 Support preparation for a pre-bid conference: HR&A will develop presentation materials related to the goal, scope, and business term elements of the RFP for the City's use in a pre-bid conference call. We recommend encouraging all interested respondents to join, to allow for questions and discussion of the RFP's key terms and to provide the City with an early sense of market interest. HR&A assumes that the City will deliver the presentation, and we will plan to participate via conference call.

- 4.2 Respond to questions and prepare RFP amendments: HR&A will manage receipt of questions regarding the RFP and work to draft or obtain the appropriate responses. HR&A will draft a set of aggregated questions and responses, or as needed create “batches” of questions and responses, to be reviewed by City staff prior to release to respondents and posting publicly by the City. If questions indicate a need to issue any amendments to the RFP, HR&A will draft and publish these amendments, for up to two rounds of Q&A and/or amendments to be prepared and posted.

Deliverables: Presentation materials for the pre-bid conference; question and answer documents and/or addenda to the RFP for the City’s review and release.

Phase 2: Evaluation of Solicitation Responses and Negotiation Support

Task 5. Proposal Evaluation

As the City receives RFP responses, HR&A will support the evaluation of submitted proposals. Anticipated tasks may include:

- 5.1 Conduct respondent due diligence: HR&A will review information provided by respondents and conduct additional background research as needed to understand critical information such as developer credentials, prior projects, financial wherewithal and outcomes of participation in similar projects. Where key information is missing or unavailable from responses and desktop research, HR&A will draft questions to respondents on key points of clarification.
- 5.2 Initial response evaluation: To support the evaluation committee’s review, HR&A will provide an objective assessment of respondents’ proposed agreement terms and elements, evaluating how completely respondents fulfill the criteria set forth by the City.
- 5.3 Facilitate City evaluation process: HR&A will facilitate the City’s comprehensive evaluation of proposals, including an initial draft of a scoring matrix, and leading discussions with the City’s selection committee to rank proposals. HR&A will rely on City staff for scheduling and other logistical support during this process.
- 5.4 Respondent interviews: As needed, HR&A will work with City staff to prepare for and conduct interviews with shortlisted respondents. We anticipate that this will include managing development of key questions and facilitating gathering of information during and following the interview process.
- 5.5 City leadership review: Upon completion of the initial evaluation process, HR&A will support City staff in preparing a staff report and/or presentation to leadership to summarize responses, evaluations, and to request authorization to proceed into the negotiation phase, described in Task 6, with one or more respondents.

Deliverables: An evaluation framework for the City’s evaluation committee; a presentation summarizing our initial evaluation of responses, accompanied by key questions for respondents; agendas and questions for respondent interviews, if needed.

Task 6. Preferred Proposer Negotiations & Transaction Support

HR&A will be available to support the City’s negotiation of terms with the preferred developer for a deal structure that is mutually beneficial to the City and the developer. Subtasks may include:

- 6.1 Supporting term sheet drafting and negotiations: HR&A will support drafting and negotiations of an initial term sheet between the City and one or more preferred respondents. This process will refine

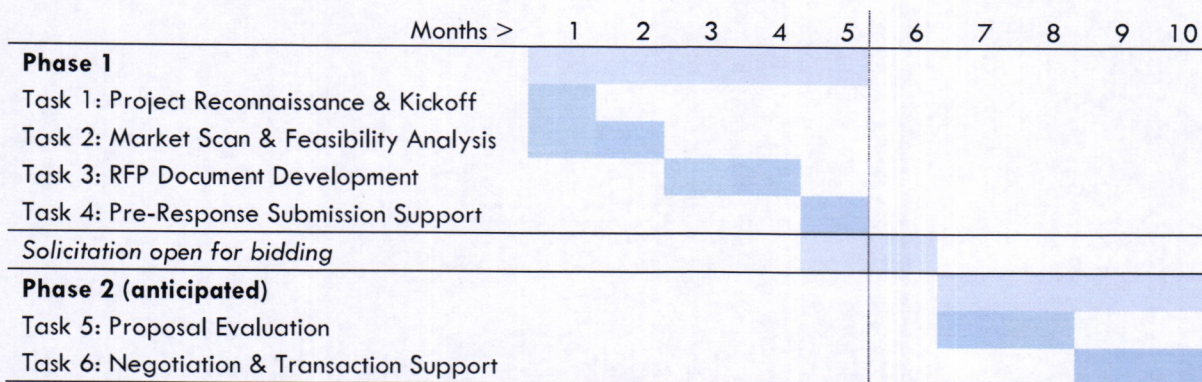
the offers provided by developers, provide the City with a final point of leverage in negotiations, and seek to solidify the key terms to be included in an agreement with the preferred partner.

- 6.2 Supporting agreement drafting and negotiations: Based on the term sheet developed in the task above, HR&A will work with the City's transaction counsel to develop a final form of agreement between the City and the preferred development partner. HR&A will review and comment on key business terms within this agreement, but will rely primarily on transaction counsel for agreement drafting.
- 6.3 Presenting negotiated deal terms to City leadership for approval: As required, HR&A will prepare a presentation synthesizing key deal terms with the preferred development partner for City leadership approval. As with any task involving City leadership, the length of time needed to complete this task will be dependent on the scheduling of meetings as well as any presentation or meeting requirements regarding the approval of such an agreement.

Deliverables: Final term sheet for an operating agreement, and support to finalize the agreement.

TIMELINE & BUDGET

Timeline



Budget

- Phase 1** HR&A will complete Tasks 1 through 4, as described above, for a fixed fee of \$100,000, as shown in the table below, plus expenses incurred at cost. We will work closely with the City team and any other consultants to most efficiently execute the work and anticipate a schedule of 5 months for the Phase 1 work; any extension of schedule beyond an additional month may result in fees to the City on a time and materials basis.
- Phase 2** HR&A will invoice the City team on a time and materials basis, based on HR&A's 2019 discounted public sector rates, listed below.

Task	Fee
Phase 1	
Task 1: Project Reconnaissance & Kickoff	\$7,500
Task 2: Market Scan & Feasibility Analysis	\$50,000
Task 3: RFP Document Development	\$35,000
Task 4: Pre-Response Submission Support	\$7,500
Subtotal	\$100,000
Phase 2	
Task 5: Proposal Evaluation	time & materials
Task 6: Negotiation & Transaction Support	time & materials

Any additional work provided by HR&A beyond the services costed above will be billed based on HR&A's hourly non-profit and public sector rates, which are discounted from our private sector billing rates and are shown below.

HR&A Advisors, Inc.
Discounted Public/Non-Profit Hourly Rates for
2019

Chair/Vice-Chair	\$525
Partner/Senior Advisor	\$420
Principal	\$370
Director/Senior Project Director	\$315
Senior Analyst	\$235
Analyst	\$185
Research Analyst	\$145
Admin	\$100

These rates are guaranteed through December 31, 2019

HR&A will invoice on a monthly basis, based on percentage completion of work for Tasks 1 through 4, and actual time and expenses incurred for Tasks 5 and 6.