

REQUEST FOR PROPOSALS

For

RETAIL GROCERY STORE OPERATOR

located at

**Northwest Corner of Baltic and Indiana Avenue, Block 396, Lot(s) 1,6,7
City of Atlantic City 08401**

**Property Owners: Casino Reinvestment Development Authority
15 S. Pennsylvania Avenue
Atlantic City, NJ 08401
(609) 347-0500**

and

**Atlantic County Improvement Authority
1333 Atlantic Avenue, Suite 700
Atlantic City, NJ 08401**

RFP Schedule:

Release of solicitation:	May 28, 2019
Last day for questions under the question and answer period:	July 2, 2019; 4 pm EPT
Proposal submission due date:	July 23, 2019; 4 pm EPT
Anticipated developer designation date:	August 20, 2019

NOTICE TO RESPONDENTS

The Casino Reinvestment Development Authority (CRDA) is releasing a Request for Proposals (RFP) for a retail grocery store operator in Atlantic City, New Jersey. This RFP is a companion solicitation to the Authority's RFP for a developer for the Project.

The proposed site for the Project is on land owned by the Authority and the Atlantic County Improvement Authority. The CRDA will give consideration to proposals and financial arrangements that may include its contribution of real estate and possible financial subsidy to the Project, so as to incentivize the development and operation of a sustainable retail grocery store for Atlantic City residents and the surrounding community.

Interested respondents may reply to one or both RFPs and may submit proposals through a joint venture.

The CRDA will select an operator based on criteria, as outlined in this RFP, that the CRDA considers most advantageous based on the proposed financial terms and all other factors.

This RFP will be available on MAY 28, 2019 on the CRDA's web site, www.njcrda.com, as a PDF file or by writing to the address below and will be limited to one copy per respondent. Additional copies will be available at a cost of \$35.00 per copy plus postage. All respondents are required to register with the CRDA in accordance with the requirements of the RFP.

All questions regarding this RFP must be submitted in writing by 4:00 p.m. eastern prevailing time on JULY 2, 2019 in accordance with the requirements of the RFP. Proposals will be received, opened and read aloud in public at the CRDA, 15 South Pennsylvania Avenue, Atlantic City, New Jersey on JULY 23, 2019 at 4:00 p.m. eastern prevailing time. Sealed proposals shall be submitted in the manner prescribed in the RFP. The sealed envelopes must be labeled "Retail Grocery Store Operator" and contain the proposal opening date. The CRDA does not accept any responsibility for the timeliness of any mail, delivery or courier service.

Respondents are required to comply with the requirements of N.J.A.C. 17:27 (Affirmative Action), Americans with Disabilities Act of 1990 (42 U.S.C. 12101, *et. seq.*), N.J.S.A. 52:25-24.2 (Ownership Disclosure), N.J.S.A. 52:32-44 (Business Registration) and N.J.S.A. 10:5-1 (Law Against Discrimination).

Casino Reinvestment Development Authority
15 South Pennsylvania Avenue
Atlantic City, New Jersey 08401

Article I. Description of Opportunity

1.01 Definitions: Unless specifically defined otherwise, the following terms used in this solicitation shall have the meaning set forth herein-below.

1. **ACIA** – shall mean the Atlantic County Improvement Authority.
2. **Addendum or Addenda** – shall mean an amending document issued by the CRDA modifying this RFP. Addenda are a part of the RFP, and will be made available to Registered Respondents via posting to the CRDA Website.
3. **Administrative Fee** – shall mean the refundable fee in the amount of \$10,000 due from a Respondent submitting a response to this RFP, such fee in the form of a certified or bank check payable to the CRDA and accompanying the Proposal. The Administrative Fee is in addition to the Registration Fee, shall be used for Post-Designation Expenses, and shall be refunded to any Respondent not designated as a Designated Operator by the Evaluation Committee.
4. **Alternative Proposal** – shall mean Proposals other than the Respondent’s Primary Proposal for involvement with the Site.
5. **City** – shall mean the city of Atlantic City, New Jersey
6. **Contact(s)** – shall mean any oral, written or electronic communication by Respondent or any party acting on behalf of a Respondent with any of the Government Parties during the Restricted Period, where a reasonable person could infer that the communication was intended to influence the designation of the Designated Operator(s) for the Project.
7. **County** – shall mean Atlantic County, New Jersey.
8. **CRDA** – shall mean the Casino Reinvestment Development Authority, an independent authority in but not of the State Department of Treasury existing under and by virtue of the laws of the State of New Jersey, including P.L. 1984, c. 218, as amended and supplemented from time to time.
9. **CRDA Contact Person** – shall mean Ms. Dee Dolbow, 609-347-0500, or such designee, as provided in writing by the CRDA, as Addenda.
10. **CRDA Website** – shall mean the website used by the CRDA to provide information and otherwise electronically communicate Addenda to Registered Respondents, such website address to be www.njcrda.com.
11. **Designated Developer** – shall mean one or more entities selected by the CRDA Evaluation Committee and executing the agreements and other related documents to develop the Site in accordance with a contemporaneous RFP issued by the CRDA.
12. **Designated Operator** – shall mean one or more entities selected by the CRDA Evaluation Committee and executing the agreements and other related documents to operate the Grocery Store in accordance with this RFP.

13. **Designation Letter** – shall mean the letter delivered to the successful Respondent from the CRDA designating such Respondent a Designated Operator.
14. **Disposition Documents** – shall mean the Memorandum of Agreement, the Operating Agreement, and/or other principle operative documents with the successful Respondent(s), the CRDA and/or the Designated Developer necessary and desirable to operate the Project.
15. **ERG Program** – shall mean the Economic Redevelopment and Growth Grant Program established under the New Jersey Economic Stimulus Act of 2009, administered by the New Jersey Economic Development Authority.
16. **Evaluation Committee** – shall mean the committee charged with assessing the Proposals submitted by Respondents to this RFP, and recommending the designation of a Designated Operator.
17. **Facilities** – shall mean all infrastructure developed upon and improvements to the Site, including, but not limited to, structures, buildings, walkways, roadways, driveways, parking areas, storm water control systems, and utilities.
18. **Government Parties** – shall mean the ACIA, City, the County, the CRDA, and the State.
19. **LEED** – shall mean Leadership in Energy and Environmental Design.
20. **Master Development Agreement** – shall mean the agreement entered into by and between the CRDA and the Designated Developer for the construction of the Project, such agreement to be executed within two-hundred seventy (270) days of the date of the Memorandum of Agreement with the Designated Developer.
21. **Memorandum of Agreement** – shall mean an agreement by and between the Designated Operator, the CRDA, and/or the Designated Developer to be executed within sixty (60) days of the Evaluation Committee’s designation of the Designated Operator, such agreement setting forth the initial terms and conditions under which the parties thereto shall negotiate and execute an Operating Agreement and other related documents.
22. **Post-Designation Expenses** – shall mean the reasonable external costs and expenses, including, without limitation, legal fees and costs incurred by the CRDA to negotiate and execute the Disposition Documents.
23. **Post-Designation Expense Fund** – shall mean the payment made to the CRDA by the Designated Operator to replenish the Administrative Fee, such fund to be used by the CRDA for Post-Designation Expenses.
24. **Primary Proposal** – shall mean the principle, lead Proposal advanced by the Respondent in response to the RFP.
25. **Project** – shall mean the development and sustained operation of a retail Grocery Store on the land owned by the CRDA and the ACIA known on the tax-map of the City as Block 396, Lot(s) 1, 6, 7.
26. **Proposal** – shall mean a written response submitted by a Respondent in accordance with, and satisfying all of, the terms and conditions of this RFP, including a Primary Proposal and any Alternative Proposal.

27. **Proposal Due Date** – shall mean the date that Proposals are due to the CRDA from a Respondent, such date as identified in this RFP or any Addenda.
28. **Public Sector** – shall mean the City, County, State and/or Federal government.
29. **Question and Answer Period** – shall mean the period during which the CRDA shall address any questions or inquiries pertaining to the RFP, such period as identified in the RFP or any Addenda.
30. **Registration Fee** – shall mean the non-refundable fee in the amount of \$1,500 due from a Respondent upon submission of the Registration Form, such fee in the form of a certified or bank check payable to the CRDA.
31. **Registered Respondent** – shall mean a Respondent that has completed and delivered to the CRDA a Proposal and paid the Registration Fee, all in accordance with the terms and conditions of the RFP.
32. **Respondent** – shall mean an entity or group of entities submitting a Proposal in response to this RFP.
33. **Restricted Period** – shall mean the period commencing upon the date of advertisement of the RFP and ending upon the CRDA’s execution of the Disposition Documents.
34. **RFP** – shall mean one or more Request for Proposals released for the Project by the CRDA.
35. **Site** – shall mean all that certain tract or parcel of land consisting of approximately 4.11 acres within Block 396 located in Atlantic City, Atlantic County, New Jersey.
36. **State** – shall mean the State of New Jersey and its political sub-divisions, agencies and authorities.

1.02 Summary: The CRDA is releasing this Request for Proposals for potential partners to operate the Project. The Project is envisioned to be an approximately 40,000 square foot turn-key grocery store development (of which approximately 30,000 square feet will be selling space) offering access to affordable, fresh and healthy foods, beverages, household products, baked goods, packaged goods and a variety of non-food items, such as kitchenware, household cleaners, pharmacy products and pet supplies (the “Grocery Store”) to the Atlantic City and surrounding communities.

1.03 Purpose and Intent of this RFP: The purpose and intent of this RFP is to identify one or more Grocery Store operators with the qualifications and experience to partner with the CRDA in the Project. For the purposes of this RFP, a Grocery Store operator is one or more entities with the capacity and experience to operate a Grocery Store servicing an urban and surrounding community similar to Atlantic City. The role of the Grocery Store operator could include any or all of the following activities pertaining to operation of the Project:

1. Design
2. Operation
3. Financing

- 4. Marketing
- 5. Property Management

The successful Grocery Store operator will be expected to bring and/or attract capital to the Project, work with CRDA to fully develop a comprehensive operational plan for the Project.

The CRDA will consider a disposition(s) in the form of land acquisition, a long-term ground lease, development and management agreements for the Project. Requirements for submission of proposals and criteria for selection are detailed in Article II of this RFP.

1.04 The Site:

Location	Located on property owned by the CRDA at the NW corner of Baltic and Indiana Avenue
Block and Lot Numbers	Block 396/ Lot(s) 1,6,7 (lots 1 thru 10 were consolidated into 1, 6 and 7)
Size (approximate)	520 feet x 1000 feet irregular
Lot Area (approximate)	179,289.37 square feet
Acreage (approximate)	4.11 acres
Zoning	Current zoning designation is Central Business District (CBD)

1.05 Location: The Project will be located on 4.11 acres identified on the City tax-map as Block 389. The Site is bounded by Ohio Avenue (to the west), Indiana Avenue (to the east), Bacharach Boulevard (to the north) and Baltic Avenue (to the south). The site enjoys convenient access from the Atlantic City Expressway, is just a block from the The Tanger Outlets (a CRDA-sponsored development), within two miles of the new Stockton University Atlantic City campus, the new South Jersey Gas headquarters, and is within walking distance from the train station, the post office, and several multi-family housing developments. Atlantic City is home to in excess of 35,000 individuals who work and/or live in the City. See the aerial map appended hereto as **Exhibit 1.05**.

1.06 Reserved

1.07 Goals: The goals of the Project include:

1. To provide fresh healthy and affordable food to the Atlantic City Community
2. To establish a successful Grocery Store establishment at a centrally located site in the City
3. To achieve excellence in architecture, urban design and sustainability;
4. To make a significant contribution to the city economy in terms of job creation, tax ratables and generally to maximize best value for the Government Parties, which is defined as the total economic value of the sum of: (i) upfront and future payments, (ii) the value of any in-kind considerations received by the Government Parties and (iii) the value of any other economic benefits received by the Government Parties or its citizens that in the sole judgment of the CRDA, are bona fide, legitimate, quantifiable and reasonable benefits less the economic value of any negative economic impacts caused by the Respondent's Proposal.

1.08 Site Visits and Pre-submission Meeting: Prospective respondents can find more information and a copy of the RFP on the CRDA Website. A pre-Proposal conference will be held on June 5, 2019 at 2:00pm EPT at the offices of the CRDA. Interested parties are urged to attend this informational session (which will include a tour of the Site) to learn more about the Project, the strategic partnerships that are in place to help deliver the project and the scope and scale of the development opportunity. **Please call Dee Dolbow at 609-347-0500 to register to attend the pre-submission meeting. Parties attending the pre-submission meeting will be required to register as a Registered Respondent prior to or at the start of the meeting.**

1.09 Reserved.

1.10 Background and Current Conditions

The Site is currently utilized as a parking lot with a ground water filtration facility on property that is no longer in use and in the process of being decommissioned and demolished. Lot 6 is currently owned by the ACIA. Like the CRDA, the ACIA is expected to participate in the Project through a sale or lease transaction, based on a nominal ground lease rental.

1.10-1 Permits, Approvals and Site Conditions

The operator will be responsible for all permits, approvals applicable to the operation of the Grocery Store.

1.10-2 Utilities

The following provides a brief summary of utilities available to the Site.

- (a) Electric: Atlantic City Electric
Description: [To be determined by the Designated Developer during the initial phase of construction]
- (b) Water: Atlantic City Municipal Utilities Authority
Description: [To be determined by the Designated Developer during the initial phase of construction]
- (c) Sewage: Atlantic City Sewerage Company
Description: [To be determined by the Designated Developer during the initial phase of construction]
- (d) Natural Gas: South Jersey Gas
Description: [To be determined by the Designated Developer during the initial phase of construction]

1.10-3 Environmental Concerns: Certain environmental assessments and information is available for inspection upon request by contacting Dee Dolbow at 609-347-0500. The Designated Operator may not rely upon any of the existing environmental assessments and information provided by the Government Parties, and is solely responsible for conducting its own environmental due diligence.

NOTWITHSTANDING ANY EXPRESSED OR IMPLIED REPRESENTATION TO THE CONTRARY, THE RECORDS OF ANY SUBSURFACE OR ENVIRONMENTAL INVESTIGATION(S), IF ANY, ARE MADE AVAILABLE FOR INSPECTION SOLELY FOR THE CONVENIENCE OF THE RESPONDENT. THE GOVERNMENT PARTIES AND THEIR RESPECTIVE CONSULTANTS MAKE NO REPRESENTATIONS OR WARRANTIES REGARDING THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS OR ANY OTHER ENVIRONMENTAL CONDITIONS THAT MAY IMPACT THE VALUE OF THE SITE OR THE FUTURE DEVELOPMENT THEREON.

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT THE GOVERNMENT PARTIES AND EACH OF THEIR RESPECTIVE CONSULTANTS ASSUMES NO RESPONSIBILITY WHATSOEVER IN RESPECT TO THE SUFFICIENCY OR ACCURACY OF THE ENVIRONMENTAL OR SUBSURFACE INVESTIGATIONS, THE RECORDS THEREOF, OR IN THE INTERPRETATIONS SET FORTH OR THEREIN OR MADE BY THE GOVERNMENT PARTIES IN ITS USE THEREOF OTHER THAN AS USED TO ESTABLISH A GENERAL UNDERSTANDING OF CURRENT CONDITIONS. THERE IS NO WARRANTY OR GUARANTEE, EITHER EXPRESS OR IMPLIED, THAT THE CONDITIONS INDICATED BY SUCH INVESTIGATIONS OR RECORDS THEREOF ARE REPRESENTATIVE OF THOSE EXISTING THROUGHOUT SUCH AREAS, OR ANY PART THEREOF, OR THAT UNLOOKED-FOR DEVELOPMENTS MAY NOT OCCUR, OR THAT

MATERIALS OTHER THAN, OR IN PROPORTIONS DIFFERENT FROM THOSE INDICATED, MAY NOT BE ENCOUNTERED.

THE AVAILABILITY OR USE OF INFORMATION DESCRIBED IN THIS SUBSECTION IS NOT TO BE CONSTRUED IN ANY WAY AS A WAIVER OF THE ABOVE PROVISIONS AND THE RESPONDENT IS CAUTIONED TO MAKE SUCH INDEPENDENT INVESTIGATION AND EXAMINATION AS NECESSARY TO SATISFY THE RESPONDENT AS TO THE CONDITIONS TO BE ENCOUNTERED AT THE SITE.

INFORMATION DERIVED FROM SUCH INSPECTION OF RECORDS OF INVESTIGATIONS OR COMPILATION THEREOF MADE BY OR ON BEHALF OF THE GOVERNMENT PARTIES AND THEIR RESPECTIVE CONSULTANTS, DOES NOT RELIEVE THE RESPONDENT FROM ANY RISK, LIABILITY OR FROM PROPERLY FULFILLING THE TERMS OF THE RFP.

1.11 The CRDA recognizes that the Designated Operator may desire to undertake further environmental investigations before entering into Disposition Documents, and the CRDA will work with the Designated Operator to establish a process to allow for such further investigation before such documents are completed. Such a process will include a requirement that the Designated Operator enter into a Right of Entry Agreement or similar access agreement with the CRDA, whereby, among other terms and conditions, the Designated Operator shall be granted access to the Site to perform certain environmental due diligence.

1.12 Guidelines for operating the Grocery Store

The following guidelines provide general programmatic, functional and aesthetic direction for the operation of the Grocery Store:

- Establish a viable, sustainable Grocery Store
- Products should include name brand as well as locally sourced goods
- Fresh produce, a deli counter, fresh fish section, a butcher/meat section, as well as a ready to eat or serve section should be provided within the Grocery Store
- The Operator may provide for an eat-in section with both indoor and outdoor café space.

1.13 Reserved

1.14 Economic Incentives

In addition to potential financial assistance from the CRDA, the Designated Operator may also be eligible to participate in certain economic incentives, offered by one or more of the Government Parties. The operator should include a financial plan as outlined below. Any funding request from CRDA should be included in the *pro forma* financial statement included with this RFP.

Article II. The RFP Process

2.01 Designation: The process by which a Respondent is formally designated as the/a operator of the Site is as detailed below. The CRDA will require the Designated Operator to provide at closing a creditworthy guarantee and/or other financial security, in a form and substance satisfactory to the CRDA securing the Designated Operator obligations under this RFP and any agreement(s) contemplated to be executed by and between the CRDA, the Designated Operator, and other relevant parties, such agreements including a Memorandum of Agreement, a Master Development Agreement, and possibly a Master Ground Lease Agreement.

Subject to the selection process outlined below, the successful Respondent(s) will become the Designated Operator for all or a portion of the Site and the CRDA will deliver a Designation Letter to the Designated Operator. Within sixty (60) days following designation, the Designated Operator shall be required to enter into the Memorandum of Agreement with the CRDA that will memorialize the principal terms of the agreement between the parties. Under the Memorandum of Agreement, the Designated Operator shall be required to replenish the Post-Designation Expense Fund by wire transfer of immediately available funds to the CRDA. The CRDA shall have the right to withdraw amounts from the Post-Designation Expense Fund necessary to reimburse the CRDA for Post-Designation Expenses. At any time that the amount on deposit in the Post-Designation Expense Fund shall be less than \$2,500, the Designated Operator shall deposit with the CRDA such amount that shall be necessary to restore the amount of the Post-Designation Expense Fund to not less than the initial amount of the Administrative Fee. Any amounts remaining in the Post-Designation Expense Fund after reimbursement of the expenses shall be refunded to the Designated Operator. In the event there are multiple Designated Operators, such Post-Designation Expense Fund shall be reasonably prorated in a manner as determined by the CRDA in its sole judgment.

Following the execution and delivery of the Memorandum of Agreement, the CRDA and the Designated Operator shall have two-hundred seventy (270) calendar days (or such longer period as determined by the CRDA in its sole discretions) to negotiate, execute and deliver any remaining Disposition Documents. If the Disposition Documents are not executed and delivered within such time frame, the CRDA, in addition to any other remedies available to it, shall have the sole and exclusive right to terminate the Memorandum of Agreement, to discontinue all further negotiations with the Designated Operator and to commence negotiations with other parties as to the disposition of the Project.

Following the execution and delivery of the Memorandum of Agreement *and* upon execution and delivery of the Disposition Documents, the Designated Operator will be required to, as determined by the CRDA in its sole discretion, (i) pay by wire transfer of immediately available funds an amount equal to ten percent (10%) of the present value of the rental income stream, or (ii) performance and payment

bonds in such amounts and with one or more sureties satisfactory to the CRDA as a deposit and security for the performance by the Designated Developer of its covenants, agreements and obligations under the Disposition Documents. Amounts deposited under this provision shall be deemed earned by CRDA as of the date of the Disposition Documents and shall be non-refundable.

The Designated Operator **will not be** responsible for any pre-designation costs and expenses incurred by the Government Parties, except as set forth in this RFP.

- 2.02 Submission Date and Place:** The CRDA will consider proposals from a Respondent who desires to develop all or a portion of the Site. Seven (7) bound originals and seven (7) flash drives of the Proposals, including all forms and attachments, must be received by CRDA at the address below on or before the Proposal Due Date July 23, 2019 at 4 pm EPT and must be accompanied by the Administrative Fee. **All Proposals must be sealed to provide for confidentiality of the information contained therein and to ensure that Proposals remain intact until opened.**

DELORES DOLBOW
PURCHASING AGENT
CASINO REINVESTMENT DEVELOPMENT AUTHORITY
15 S. PENNSYLVANIA AVENUE
ATLANTIC CITY, NEW JERSEY 08401

All Proposals must be addressed to the CRDA Contact Person. Any Proposal received after the Proposal Due Date will be returned unopened. **A Proposal will be deemed to have been received only if it is delivered directly to the attention of the CRDA Contact Person by the Proposal Due Date.** Time stamped receipts will be provided for any hand-delivered Proposals. The CRDA will issue a confirming e-mail receipt to the Respondent's designated contact person after receipt of the Proposal package. Proposals will not be deemed to be received if delivered to any other office, facility or address, or to any other Government Parties' address. Respondent is solely responsible for the timely receipt of its Proposal.

- 2.03 Registration, Inquiries and Communications:** The RFP, Addenda, if any, and other general and/or public information will be available on the CRDA Website. Each Respondent must be registered in accordance with the registration process described in this RFP, which includes the payment of the Registration Fee.

Upon registration, the Respondent will be designated a "Registered Respondent" and be provided with supplemental information via a secured electronic format, which will include the Exhibits to this RFP, any background information, technical documentation and other useful information. In addition, registration will enable

the CRDA to email updates, notices and other additional information about this RFP to a Registered Respondent. As part of the registration process, Respondents will be required to enter into a confidentiality and non-disclosure agreement to protect unapproved disclosure of certain confidential and safety/security sensitive information that will be available only to a Registered Respondent.

PROPOSALS WILL ONLY BE ACCEPTED FROM RESPONDENTS WHO HAVE PROPERLY REGISTERED PRIOR TO THE PROPOSAL DUE DATE.

To register, Respondents must complete the CRDA Respondent Registration Form provided by the CRDA, and pay the Registration Fee prior to or at the Pre-submission meeting.

All communications concerning the RFP are to be directed in written form by email to the CRDA Contact Person. Requests for clarification or questions concerning this RFP should be made by email only to CRDA-QUESTIONS@NJCRDA.COM to the attention of the CRDA Contact Person during the Question and Answer Period. The subject line of the Respondent's inquiry should read: "GROCERY STORE OPERATOR RFP".

Advisor(s), employee(s), or representative(s) of the Government Parties are not authorized to give interpretations of this RFP or additional information regarding the requirements of this RFP directly or indirectly to a Respondent or their representatives. Interpretations or additional information with respect to this RFP, if provided, will be communicated from CRDA to all Registered Respondents by email and/or by Addenda. **Direct or indirect contact by a Respondent or any third-party person or entity representing a Respondent or a Respondent's interest, retained directly or indirectly by a Respondent, with or without compensation, with any party involved in the selection and approval of the Designated Developer(s) other than the designated CRDA Contact Person regarding this RFP or any component of the RFP process may result in disqualification, as determined by the CRDA in its sole and absolute discretion.**

Respondents shall have an on-going obligation to disclose certain information with respect to any persons and organizations retained, employed or designated by or on behalf of the Respondent to influence the Evaluation Committee's selection of the Designated Developer(s), and the Respondent will be required to proactively update such information throughout the selection process.

- 2.04 Applicable Laws:** The disposition of the Site and the RFP process are subject to applicable New Jersey State law. By registering in accordance with this RFP, Respondents acknowledge and agree to abide by all applicable laws, statutes, regulations, ordinances, and other similar governmental requirements of the State

of New Jersey pertaining to this solicitation and the disposition of the Site. Without limiting the foregoing, the CRDA, in selecting the Designated Operator(s) will follow the State Comptroller's Best Practice Guidelines for procurement dated March 2010, such guideline available at https://www.nj.gov/comptroller/news/docs/service_contracts_report.pdf for reference.

2.05 RFP Submission Guidelines: Each Respondent must adhere to the RFP submission guidelines outlined herein and as further detailed in **Exhibit 2.05. UNDER NO CIRCUMSTANCES SHALL THE CRDA OR THE OTHER GOVERNMENT PARTIES BE LIABLE FOR ANY OF THE COSTS OF ANY RESPONDENT OR THE DESIGNATED OPERATOR(S) IN CONNECTION WITH PREPARING A PROPOSAL IN RESPONSE TO THIS RFP, NEGOTIATING WITH THE GOVERNMENT PARTIES OR OTHERWISE PARTICIPATING IN THIS RFP PROCESS.**

1. Each Respondent must be a Registered Respondent. Proposals will only be accepted from Registered Respondents.
2. The Primary Proposal must be accompanied by the Administrative Fee. The Administrative Fee paid by the Designated Operator(s) will be retained by CRDA and the Designated Operator(s) will not be entitled to any credit against the payments due and owing from the Designated Operator(s) under its agreements with the CRDA or any other economic terms in connection with the Site. Acceptance of the Administrative Fee by the CRDA does not create any obligations on the part of CRDA to the Respondent or entitle the Respondent to any rights with respect to the Site, or any other property controlled by the CRDA or any of the other Government Parties. Respondents not selected as a Designated Operator will have their Administrative Fee returned within 30 days of the CRDA's selection of the Designated Operator(s).
3. Proposals must utilize the RFP Form of Submission (Exhibit 2.05). **ANY PROPOSAL THAT IS NOT SUBMITTED USING THE COMPLETED FORM OF SUBMISSION WILL BE REJECTED.**
4. The Proposal Form of Submission is organized as follows:
 - a. Section I - Respondent Certification
 - b. Section II - Executive Summary
 - c. Section III - Respondent Profile
 - d. Section IV - Project Profile
 - e. Section V - Business Terms
 - f. Section VI – Submittals and Compliance Documents

Seven (7) bound originals and seven (7) flash drive (read-only) of the Proposals, including all forms and attachments, must be received by CRDA at the address below on or before the Proposal Due Date, and must be accompanied by the Administrative Fee. **All Proposals must be sealed** to provide for confidentiality of the information contained therein and to ensure that Proposals remain intact until opened.

5. The CRDA will consider Alternative Proposals without the payment of an additional Administrative Fee **provided that** the entity making the Alternative Proposal is identical to the entity making the Primary Proposal. Such Alternative Proposals are to be submitted as an addendum to the Respondent's Primary Proposal by completing and attaching separate Sections IV and V for each Alternative Proposal.
6. **Section I – Respondent Certification** must be completed and submitted with the sealed Proposal.
7. The Proposal should address the financing, design and schedule for all required Facilities.
8. **Section II** - The Executive Summary requires the Respondent to summarize the specific aspects of their Proposal. The Executive Summary for all qualifying Proposals will be made available to the general public after the Proposal Due Date. The CRDA reserves the right to modify the Executive Summary prior to dissemination to the general public.
9. **Section III – Respondent Profile** requires information relating to the Respondent, including the Respondent's development entity, the Respondent's financial condition, the Respondent's design team, the Respondent's consultants, development and legal team, and the Respondent's direct and relevant experience in each aspect of the project being proposed, including on-Site and off-Site infrastructure, and ability to procure necessary governmental approvals, and the Respondent's prior experience in developing the proposed project and attracting its target end users. In particular, the Respondent must provide two-years of audited financial statements, and financial references from institutions and equity partners that the Respondent has done business within the last five years. The Respondent must also provide a minimum of five government unit references, including contact name, address and telephone number, for projects of a similar scope and/or land use as contemplated by this RFP.

The successful Respondent will be required to agree to an "open book" approach to allow the CRDA an on-going right to review such Respondent's financial statements until completion and acceptance of the Project.

10. **Section IV – Project Profile** requires information relating to the Proposal, including a narrative description of the development program, building and site design description, design drawings, site access plan, project completion schedule, and property management details. Also, the Proposal should include a detailed discussion of the project’s target end users, and how the development will attract such end users.
11. **Section V – Business Terms: *Prior to the CRDA and Respondent executing the Memorandum of Agreement, the Respondent, after negotiation with the CRDA and the other Government Parties, will be required to produce the following:***
- a. information relating to one or more viable financial structure(s) for the operation of the Project, for example, consideration and discussion of operating lease opportunities, any “make-whole” requirements and/or financial guarantees, required mix of uses of the Site, and any tax considerations;
 - b. a ten (10) year pro forma cash flow projection including all relevant line items, similar to what a Respondent would submit to a potential equity investor or a lender for financing;
 - c. a financial plan for any Proposal, including an annual capital draw schedule, annual sources and uses statement for both debt and equity showing annuals draws based on: (i) an estimate of itemized total development costs, (ii) the proposed development schedule, (iii) the amount, source and timing of Respondent’s equity, (iv) the amount, potential source, timing and terms of the Respondent’s financing, including all financing assumptions and minimum tests (*e.g.*, debt service coverage ratio and loan-to-cost/value ratio) for both construction and permanent financing, if applicable; and (v) an itemized annual cash flow projection including gross income, operating expenses and anticipated financing structure.
 - d. Respondents must describe the terms under which the Respondent and the CRDA will share any additional potential revenues.
 - e. The proposed share of proceeds to be paid to the CRDA from a capital event such as a leasehold sale, including, for example, partner exchange, transfer, major subletting, syndication, financing or refinancing, excess insurance or condemnation proceeds or any other capital event.
 - f. Respondent’s sources and uses, and *pro forma* financial presentation must include Respondent’s expected financial request, if any, from the Government Parties.

g. To better understand how the Respondent’s Proposal meets the goals of this RFP, Respondent shall submit a detailed economic impact analysis that quantifies the total net economic benefits to be received by the Government Parties from the proposed project(s). Such analysis should address the certainty and timing of payments (if any) and explain both the “halo effect” of the project on the Atlantic City region and the net economic impact of the proposed project(s) by taking into account the value of: (i) any payments to the Government Parties, (ii) the value of any in-kind considerations received by the Government Parties, and (iii) the value of any other reasonable, legitimate and quantifiable economic benefits received by the Government Parties, less the economic value of any negative economic impact on the Atlantic City region caused by the Respondent’s project(s). Such analysis shall include, but not be limited to:

- 1) All of the above proposed business terms for the Project;
- 2) All post completion taxes and fees, with the timing and amounts of such payments identified by the individual Government Party(ies) receiving such payments;
- 3) The specific value of any in-kind consideration or other economic benefits proposed;
- 4) The gross and net value of both direct and indirect jobs created, including headcount and projected compensation levels and income taxes;
- 5) The negative economic impact, of any, on the Atlantic City region’s existing economic base;
- 6) The impact of the proposed development on the demand for Government Party(ies) services, including, but not limited to, police, fire, sanitation, and public works; and
- 7) The supporting data necessary to verify the Respondent’s projections.

The analysis should be presented by individual line item for each proposed revenue or value source indicating the entity that will receive the payment or value and indicating whether the projected revenues or values are fixed or conditional amounts.

h. Respondent will be required to respond to certain additional items or inquiries during the selection process, including whether Respondent’s development team will include meaningful equal opportunity and workforce development programs for Atlantic City regional businesses and residents.

12. Section VI – Submittals and Compliance Documents

a. BID BOND or LETTER OF CREDIT – submitted at the time of response and in an amount equal to a face value of \$15,000. The bond must be from

a reputable surety and the letter of credit from a financial institution satisfactory to the CRDA. If the Respondent is designated by the CRDA and fails to enter into the Memorandum of Agreement and other Disposition Documents, the CRDA shall be entitled to retain the bond or present the letter of credit for payment.

- b. **PERFORMANCE BOND** – submitted upon execution of all Disposition Documents in such amount and in a form satisfactory to the CRDA.
- c. **COMPLIANCE DOCUMENTS** – See Article III below.

2.06 RFP Selection Criteria: In evaluating the Proposals, the Evaluation Committee will consider such criteria consistently across all proposals that, in its sole and absolute discretion, are in the best interests of the Government Parties and that best advance the goal of the Project. The criteria listed below are of particular concern to the Evaluation Committee:

1. Quantity, certainty and timing of revenues to the Government Parties.
 - a. The project economics and financing plan clearly support the project concept.
 - b. Respondent’s financial qualifications (including its proven ability to obtain financing for projects of similar size and/or complexity, experience with institutional lenders, and evidence of the willingness of such lenders to finance the proposed development), and the amount of equity or personal risk the Respondent proposes for the project, and ability to obtain guaranties and other financial security for completion of necessary infrastructure.
 - c. Respondent’s experience and competence in the operation, management, marketing and design of projects of a scale, complexity, and quality similar to that required by this RFP, and Respondent’s ability to implement its Proposal.
 - d. Respondent’s past performance and experience operating a Grocery Store.
 - e. The amount and structure of Respondent’s request for financial assistance from the Government Parties, if any, in order for the Project to remain sustainable.
 - f. The priority that the Respondent places on the project relative to the Respondent’s other projects.
2. Quality of the proposal.
 - a. Respondent’s demonstrated understanding of the scope and complexity of the project and the CRDA’s goals and objectives.
 - b. Quality of Respondent’s proposed operating parameters.

- c. Relationship and overall benefit to the community served by the Grocery Store.
 - d. Respondent's commitment to creating an environmentally sustainable Project.
 - e. Experience and qualifications of professionals and other members of Respondent's team.
3. Proposed timeframe for commencement of operations of the Grocery Store.
4. Respondent's previous record of performance in business dealings with any municipal, state, or federal agencies, including any of Government Parties.
5. Quality, creativity and originality of Respondent's proposed equal opportunity and workforce development programs for Atlantic City regional businesses and residents.

The Evaluation Committee reserves the right to apply consistently across all Proposals and consider criteria other than the foregoing and to assign to each of the above and to such other criteria as are considered such weight as the Evaluation Committee may in its absolute discretion determine.

2.07 RFP Selection Process: Based on a review and evaluation of the Proposals, the Evaluation Committee, with the advice of any non-voting consultant, intends to designate one or more Respondents as the Designated Operator in accordance with the procedure outlined below:

1. Proposals will be opened by the CRDA on the Proposal Due Date and all Executive Summaries for all qualifying Proposals will be made available to the general public via the CRDA Website within 24 hours of the opening of all Proposals. The CRDA reserves the right, in its sole discretion, to redact information from the Executive Summaries, such as, any financial or business term information prior to posting.
2. The Evaluation Committee expects to complete its review of the Proposals within 30 days of the Proposal Due Date, and thereafter will make its recommendation to the CRDA members.
3. If appropriate, in its sole discretion, the Evaluation Committee shall recommend a "shortlist" of Proposals for consideration by the CRDA.
4. If appropriate, in its sole discretion, the Evaluation Committee may conduct separate meetings or interviews with eligible Respondents to discuss their Proposal(s) after which the Evaluation Committee may request that the Respondent submit one or more modified Proposal(s) based on such discussions.

5. Following completion of such discussions, if the Evaluation Committee determines that there are one or more Proposal(s) that merit further consideration, the Evaluation Committee will present its recommendations to the CRDA members for their consideration.
6. Upon completion of its review, the CRDA expects to issue the Designation Letter to the successful Respondent(s) who will become the Designated Operator for all or a portion of the Site, as set forth in such letter.
7. Within 60 days of the date of the Designation Letter, the Designated Operator shall negotiate, execute and deliver the Memorandum of Agreement and within 270 days thereafter, negotiate, execute and deliver the remaining Disposition Documents.
8. The CRDA may at any time exclude Proposals that, in its sole and absolute discretion, fail to demonstrate the necessary qualifications or fail to comply with the requirements of this RFP.
9. The Evaluation Committee will review all Proposals for completeness and compliance with the terms and conditions of this RFP, and may, at any stage of the RFP process, request from any or all of the Respondents additional material, clarification, confirmation, or modification of any submitted Proposal, including Proposals that are incomplete or nonconforming as submitted. Except at the request or with the consent of the CRDA (which consent shall be in the sole and absolute discretion of the CRDA), Respondents will not be entitled to change their Proposals once submitted.
10. Employees of Government Parties are not eligible to propose or to be included as a participant with any Respondent. Any such Proposal shall be disqualified from consideration by the CRDA.
11. In the event CRDA becomes aware of any material misrepresentation with respect to any information supplied by a Respondent, the CRDA shall have the right to reject at any time the proposal of the Respondent, to refuse to negotiate or continue negotiations with the Respondent and to take any other action, including retaining any deposit made by the Respondent, as shall be deemed appropriate by CRDA in its sole discretion. CRDA reserves the right to request, at any time in the selection process, such additional information or materials as it may deem useful or appropriate to evaluate each Respondent's qualifications and past experience. Submission of a Proposal shall constitute the Respondent's permission to CRDA to make such inquiries concerning the Respondent and members of the Respondent's team, as the CRDA, in its sole discretion, deems useful or appropriate.

12. The CRDA reserves the right, at any time, in its sole and absolute discretion and without liability, to: (a) accept or reject any or all Proposals, (b) withdraw the RFP without notice, (c) use the Proposals as a basis for negotiation with one or more Respondents or (d) waive compliance with and/or change any of the terms of this RFP.
13. The CRDA further reserves the right to negotiate any and all terms of any transaction with the Designated Operator. If such negotiations cannot be concluded successfully with the Designated Operator, the CRDA may choose to negotiate with other Respondents, to terminate the selection process, or to begin a new selection process.
14. The CRDA will not pay for or refund any costs and expenses incurred by a Respondent in responding to this RFP or by the Designated Operator following selection or designation.
15. All determinations as to the completeness or compliance of any Proposal, or as to the eligibility or qualification of any Respondent, will be within the sole and absolute discretion of the CRDA.
16. The CRDA shall have the right to reject any Respondent if such Respondent, or any principal, partner, officer, director or principal shareholder of the Respondent is determined, in the sole discretion of the CRDA or any other appropriate regulatory agency, to have been convicted of or, pleaded guilty or *nolo contendere* to a felony or crime of moral turpitude, to be an “organized crime figure”, to be under indictment or criminal investigation, or to be in default on any debt, contract, or obligation to or with any of the Government Parties. The Designated Operator may be required to complete a background questionnaire to verify that it is in full compliance with these requirements.
17. **Communication Restriction:** All Contacts during the Restricted Period shall be made solely to the CRDA Contact Person, provided, however, that the following activities shall not be considered Contacts, and are therefore exceptions to the foregoing limitation on communication:
 - a. Proposals: the submission of written Proposals in response to this RFP.
 - b. Complaints: complaints by a Respondent regarding the failure of the CRDA Contact Person to respond in a timely manner to authorized Respondent Contacts, provided such complaints are made in writing to the CRDA to the attention of the Director of Planning and Development.
 - c. Oral Presentations and Discussions with Respondents: CRDA scheduled presentations by a Respondent to the Evaluation Committee

or other Government Parties for the purpose of describing its Proposal(s).

- d. Negotiations: After a Respondent has been preliminarily designated, communications between that Respondent and CRDA for the purposes of negotiation.

By submitting its Proposal and specifically its Respondent Certification, the Respondent agrees to comply with the communication restrictions set forth above.

EXCEPT AS EXPRESSLY AUTHORIZED BY THE TERMS AND CONDITIONS OF THIS RFP, RESPONDENT SHALL NOT CONTACT MEMBERS, OFFICIALS, EMPLOYEES OR CONSULTANTS OF THE GOVERNMENT PARTIES REGARDING THIS RFP, OR SEND PROPOSALS TO ANY OF THEM. FAILURE TO OBSERVE THIS REQUIREMENT MAY RESULT IN THE RESPONDENT'S DISQUALIFICATION FROM CONSIDERATION PURSUANT TO THIS RFP.

18. **Use and Disclosure of Proposal and Proposal Ideas:** The CRDA shall be entitled to retain and use, without compensation to any Respondent to this RFP, all information submitted, including, but not limited to: any concept, element or idea disclosed in or evident from the Proposal or which may be revealed during any communications with Respondent (all such information collectively referred to as "Information"). By submitting a Proposal, Respondent expressly grants to the CRDA a fully paid up world-wide license to use the Information in furtherance of the Project.

Information provided to the CRDA by Respondent may be subject to the State Open Public Records Act. Except as otherwise provided for in this RFP, prior to the issuance of the Designation Letter, the CRDA will not disclose the Proposals or any portion thereof to the general public. Once the Designated Operator is selected, the CRDA reserves the right to publish any Proposal or a portion thereof, without permission from or compensation to a Respondent or Designated Operator provided such information does not represent trade secrets clearly identified by Respondent in its Proposal and expressly accepted as such by the CRDA in a separate writing.

A Respondent may designate specific information as "Confidential" and therefore not subject to disclosure provided the Respondent has a good faith legal/factual basis for such determination. The CRDA reserves the right to make its own determination and will advise the Respondent accordingly in writing. The location in the Proposal of any such designation should be clearly stated in a cover letter detailing such "Confidential" information. **THE CRDA WILL NOT HONOR ANY ATTEMPT BY A**

RESPONDENT EITHER TO DESIGNATE ITS ENTIRE PROPOSAL AS PROPRIETARY, CONFIDENTIAL AND/OR TO CLAIM COPYRIGHT PROTECTION FOR ITS ENTIRE PROPOSAL.

19. Proposals shall be accepted from principals only. No brokerage fees, finder's fees, commissions, or other compensation will be payable by the CRDA in connection with the selection of the Designated Operator(s) or the disposition of the Site. Submission of a Proposal by a Respondent in response to this RFP will constitute an undertaking by the Respondent to indemnify, defend and hold the Government Parties harmless from and against any and all expenses, damages, or liability (including, without limitation, attorneys' fees and costs) arising out of any claim for such fees, commissions, or other compensation made in connection with such Respondent's response to this RFP, selection or no selection, or negotiation and execution (or no execution) of the Disposition Documents.

2.08 Certain General Conditions: The CRDA makes no representations or warranties whatsoever with respect to this RFP and the Site, including, without limitation, representations or warranties as to the accuracy or completeness of any information or assumptions contained in this RFP or otherwise furnished to Respondent; the use or progress of development of the Site or any portion thereof; and environmental conditions or the suitability of the Site for any specific uses or development. Respondents shall make their own analysis and evaluation of the income potential and profits and expense of the Site, and Respondents shall not rely upon any statement or information given to Respondents by the Government Parties, including without limitation, any information contained in this RFP or in any other documents cited in this RFP or made available during this RFP process.

In addition to those stated elsewhere, this RFP is subject to the specific conditions, limitations and terms, stated below:

- a. The Designated Operator will accept the Site, or the portion thereof, in an "Where Is, As Is" condition on the date of disposition, except as otherwise expressly set forth in the Disposition Documents.
- b. Any construction activities at the Site related to this RFP are to be performed at the sole cost and expense of the Designated Operator or Designated Developer, as applicable.
- c. The Designated Operator will be required, at its sole cost and expense, to comply with all applicable federal, state, and local laws and regulations, and to obtain from all appropriate government authorities all construction and ancillary permits and approvals for the operation of the Project at the Site, including but not limited to, all required building

permits and approvals, licenses, certificates of occupancy and environmental approvals.

- d. Acceptance of a Respondent's Proposal or selection of the Designated Operator pursuant to this RFP will not create any rights on the Respondent's or Designated Operator's part, including without limitation rights of enforcement, equity or reimbursement. After execution and delivery of the Disposition Documents, the terms thereof will thereafter govern the relationship between the CRDA and the Designated Operator. In the event of any variance between the terms and conditions of this RFP and the Disposition Documents, the terms and conditions of the Disposition Documents will govern.
- e. This RFP does not constitute an offer to sell or lease the Site or any portion thereof, nor a solicitation of offers to sell or lease the Site or any portion thereof. The Government Parties shall not incur any obligation or liability on account of any submission made in connection with this RFP (nor shall any Proposal be deemed accepted) unless and until an agreement setting forth all the terms and conditions of a transaction has been fully negotiated and a written agreement incorporating such terms and conditions has been fully executed and unconditionally delivered by all the parties thereto and all necessary consents and approvals have been obtained.
- f. The Designated Operator will be responsible for complying with all applicable laws, statutes, regulations, notices and orders of governmental units (collectively, "Law") regarding development, management and/or operation of the Project at the Site, and agrees to indemnify, defend and hold the Government Parties harmless from and against any and all expenses, damages, or liability (including, without limitation, attorneys' fees and costs) arising out of or related to any claim made by any third party, including a Government Party, that the Designated Operator has violated or is in violation of the Law.
- g. CRDA reserves the right to revise this RFP and the RFP evaluation process, upon issuance of Addenda to all Registered Respondents. CRDA further reserves the right to, at any time and for any reason, discontinue negotiations with the initially selected Designated Operator and pursue negotiations with another Respondent prior to an agreement between the parties.

Article III List of RFP Submittals including Compliance Documentation

[All compliance documents are available for downloading on the CRDA website.]

A.

1. Respondent Registration Form
2. Respondent Certification
3. Disclosure of Investigations/Actions against Respondent
4. Notice of Intent to Subcontract
5. Subcontractor Utilization Form
6. Services Source Disclosure Form
7. Affirmative Action Disclosure
8. Political Contributions Disclosure Form & Instructions
9. Non-Collusion Affidavit
10. Respondent's Proposal
11. Disclosure of Investment Activities with Iran
12. Ownership Disclosure

B. The Respondent must be properly registered to do business with the State of New Jersey as of the date of award, and should submit a copy of the Respondent's NJ Business Registration Certificate with its Proposal. If not already registered with the New Jersey Division of Revenue, registration can be completed on line at the Division of Revenue website: <http://www.state.nj.us/treasury/revenue/index.html>.

C. **BID BOND or LETTER OF CREDIT** – submitted at the time of response and in an amount equal to a face value of \$15,000. The bond must be from a reputable surety and the letter of credit from a financial institution satisfactory to the CRDA. If the Respondent is designated by the CRDA and fails to enter into the Memorandum of Agreement and other Disposition Documents, the CRDA shall be entitled to retain the bond or present the letter of credit for payment.

D. **PERFORMANCE BOND** – submitted upon execution of all Disposition Documents in such amounts and in a form satisfactory to the CRDA.