

**TOWNSHIP OF NUTLEY  
COUNTY OF ESSEX  
NEW JERSEY**

**REQUEST FOR EXPRESSIONS OF INTEREST IN THE REDEVELOPMENT  
OF A PORTION OF BLOCK 3100 REDEVELOPMENT PLAN AREA**

**consisting of**

**Block 3100, Lots 29 & 30 with the option to include  
Block 3100, Lots 26, 27, 28, 31 & 32**

**SUBMISSION DEADLINE:**

**October 1<sup>st</sup>, 2021 at 10:00 A.M.**

**ADDRESS ALL SUBMISSIONS IN THE FORM REQUIRED IN THE SPECIFICATIONS  
INCLUDING 1 ORIGINAL AND 7 COPIES DELIVERED TO:**

**TOWNSHIP OF NUTLEY  
1 KENNEDY DRIVER  
NUTLEY, NEW JERSEY 07110  
ATTN: ELENI PETTAS, RMC, CMC (MUNICIPAL CLERK)**

## **Exhibits Included**

**Exhibit 1-3** – Aerial Maps depicting the overall redevelopment and rehabilitation designation area

**Exhibit 4-6** – Conceptual site plans for Block 3100 Lots 26, 27, 28, 29, 30, 31, & 32 with estimated development summaries.

**Exhibit 7-9** – Conceptual site plans for Block 3100 Lots 26, 27, 28, 29 & 30 with estimated development summaries.

**Exhibit 10-12** – Conceptual site plans for Block 3100 Lots 28, 29 & 30 (Township properties only) with estimated development summaries.

**Exhibit 13**        Area in Need of Redevelopment Investigation Report

**Exhibit 14**        Area in Need of Rehabilitation Investigation Report

## 1. OVERVIEW

The Township of Nutley, New Jersey (the “Township”) is issuing this Request for Expressions of Interest (“**RFEI**”) in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., for the purpose of seeking qualified redevelopers to redevelop an underutilized Township-owned municipal surface parking lot, the former Ciccolini property, as well as other potential privately owned properties located within the Block 3100 Investigation Studies, which are attached hereto as **Exhibit 1 - 3**.

The intent of this RFEI is to redevelop either the Township lots themselves or the Township lots with adjacent private properties previously designated into a vibrant mixed-use residential development with active commercial and retail uses fronting those portions of Franklin Avenue. In addition, the redevelopment of the area should include a provision to provide public parking spaces of which a portion can be shared with the residential and/or retail uses pursuant to the standards and conditions set forth herein.

There will be a virtual informational meeting held on **July 22<sup>nd</sup>, 2021 at 10:00 A.M.** Attendance at the informational meeting is not mandatory. Respondents may also inspect the properties on their own at any time.

To be eligible to submit an RFEI response, receive RFEI updates, and have access to supplemental information, respondents must be registered. Registration may be accomplished by completing a Respondent Registration Form and making a non-refundable payment of \$1,000 payable to the “Township of Nutley.” The proposal fee must be paid by check on or before the RFEI submission deadline.

All RFEI responses must be submitted no later than **October 1<sup>st</sup>, 2021 at 10:00 A.M.** to the Office of the Municipal Clerk, Township of Nutley, 1 Kennedy Drive, Nutley, NJ 07110. Submissions received after the deadline or without the submission fee will be rejected.

Postmarked proposals dated on the submission deadline, but received after the deadline will be deemed late and rejected. The Township shall not be responsible for the loss, non-delivery, or physical condition of proposals sent by mail or courier service. Electronic or faxed submissions will not be accepted.

For further information, contact: Eleni Pettas, RMC, CMC, Municipal Clerk, 1 Kennedy Drive, Nutley, NJ 07110, (973) 284-4955, [epettas@nutleynj.org](mailto:epettas@nutleynj.org).

## 2. PURPOSE & INTENT OF RFEI

The Township is seeking a qualified entity (the “**Redeveloper**” or “**Respondent**”) to design, build, operate and maintain a mixed-use, multi-family residential development, which would include the construction of parking space, a portion of which can be used for shared parking.

The proposed project should provide a mixed-use development in a manner that will improve land use, pedestrian and vehicular circulation, community character, and

generally enhance an underutilized section of Franklin Avenue. The intent of this RFEI is to seek a Redeveloper to develop portions of the designated Block 3100 properties with an emphasis on the municipal properties and potentially including adjoining private properties fronting Franklin Avenue that back onto the existing public Township parking lot. It is not a requirement of this RFEI for the Respondent to include all of the private properties identified in this RFEI or in the conceptual site plan exhibits within the response.

Through this RFEI, the Township intends to identify the most highly qualified Redeveloper for the project who offers the highest probability of success and the best potential long-term economic return to the Township. The Township wishes to partner with an experienced and financially capable Redeveloper which shares its long-term vision for the revitalization of the downtown area, and would be willing to work cooperatively with the Township through the predevelopment, approval and construction phases of this project.

The Township will consider a long-term tax exemption, using the designation as an area in need of redevelopment for the municipal properties and will consider designating any private properties, included in a response, as an area in need of redevelopment without condemnation.

The Township's primary objectives in issuing this RFEI (not listed in order of importance) are to:

- a. Promote redevelopment along Franklin Avenue that is pedestrian friendly;
- b. Produce new real estate tax ratables to support the on-going downtown revitalization efforts;
- c. Create temporary construction and new permanent jobs; and
- d. Provide shared parking for day-time uses to support existing businesses.

### **3. TOWNSHIP OF NUTLEY – BACKGROUND INFORMATION**

The Township of Nutley is located in Essex County and as of the 2010 Census has a population of 28,370. The Township is located in the Northern quadrant of Essex County and enjoys a unique picturesque suburban existence in close proximity to New York City. It is conveniently located near the Garden State Parkway, New Jersey Turnpike, Route 3 and Route 21. Even with its population this bedroom community enjoys a small-town ambience throughout its quiet, well-maintained tree lined streets.

The parks in Nutley are considered the "crown jewel" of the Essex County Park system and the Township prides itself in maintaining a commendable level of conservation while safeguarding this pristine natural resource from impending and unnecessary sprawl. The latest surveys list the Township as maintaining over 10,000 trees and over 100 acres of recreational land with no home being more than one half mile from a park or playground.

**4. PROJECT SITE DESCRIPTION**

The redevelopment area is comprised of three (3) municipally owned lots within Block 3100, which were previously designated as an area in need of redevelopment, as depicted in Exhibit 1. In addition to the municipally owned properties, there are adjacent privately owned properties (Block 3100, Lots 26, 27, 31 and 32) which were previously designated as an area in need of rehabilitation that have been contemplated as potential properties that are encouraged to be considered as part of any response and the Township would consider designating these properties as an area in need of redevelopment as a future step in the revitalization process.

The redevelopment area is generally comprised of surface parking on the municipal lots with one commercial building fronting Franklin Avenue, commonly referred to as the former “Ciccolini site”. The other privately owned properties are a combination of commercial, retail and residential.

There are two municipally owned parking lots on three (3) parcels in the rear (western side) of area, in the center of Block 3100. These parking areas are accessed by driveways from Franklin Avenue. The topography of the Study Area generally slopes downward from northwest to southeast with an approximate 7-to-8-foot grade change from Franklin Avenue to the rear property lines.

The properties to the west of the area are single-family dwellings fronting on Hillside Avenue. To the east and to the north of the area, across Franklin Avenue and West Plaza, are additional commercial uses.

Property Information (Tax Assessor)

| <u>Address:</u>      | <u>Block / Lot</u> | <u>Land Value</u> | <u>Impr. Value</u> | <u>Assessed Value</u> |
|----------------------|--------------------|-------------------|--------------------|-----------------------|
| 551 Franklin Ave     | 3100 / 26          | \$ 248,200        | \$ 190,100         | \$ 438,300            |
| 545 Franklin Ave     | 3100 / 27          | \$ 248,200        | \$356,000          | \$ 604,000            |
| 535 Franklin Ave (*) | 3100 / 28          | \$ 65,300         | \$ 30,000          | \$ 95,300             |
| 537 Franklin Ave (*) | 3100 / 29          | \$ 390,600        | \$ 542,200         | \$ 932,800            |
| 529 Franklin Ave (*) | 3100 / 30          | \$ 225,900        | \$ 51,200          | \$ 277,100            |
| 527 Franklin Ave     | 3100 / 31          | \$ 287,500        | \$ 467,500         | \$ 755,000            |
| 525 Franklin Ave     | 3100 / 32          | \$ 287,500        | \$ 392,800         | \$ 680,300            |

(\*) Township of Nutley Property

Service Providers:

- a. Electricity is provided by PSE&G;
- b. Gas is provided by PSE&G;

- c. Water is provided by Township;
- d. Voice and data are provided by AVAYA; and
- e. Sanitary sewer lines are owned by the Township;

All service providers will be informed of the Townships plans for the redevelopment area.

Environmental and Geotechnical Conditions: There are no available environmental or geotechnical reports for the area. The designated Redeveloper will be provided a due diligence period to ascertain this information. The Redeveloper will be responsible for all environmental, geo-technical, storm water management, design and permitting issues for the project at its sole cost and expense. The Redeveloper will be responsible for storm water drainage construction and applicable DEP permits at its sole cost and expense.

Traffic Impact Study: The Redeveloper will be expected to prepare a traffic impact study and implement the recommendations of the study to improve traffic flow in the area of the project at its sole cost and expense.

## **5. PROJECT COMPONENTS**

In November 2020, the Township of Nutley adopted the municipal lots (Block 3100, Lots 28, 29, 30, & 37) and an area in need of redevelopment. In addition, the Township adopted the following lots (Block 3100, Lots 21, 23, 24, 25, 26, 27, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42 & 43) as an area in need of rehabilitation (See Exhibit 1). Upon completion of this process, the Township intends to adopt a Redevelopment Plan based on the following:

The conceptual plans contained within this RFEI represent one way of addressing the goals and objectives for the Township, but is in no way represent the only potential plan, layout, configuration or density for the redevelopment of the properties.

As such, Respondents are encouraged to submit expressions of interest which meet the Townships objectives outlined within this RFEI but are not necessarily based on the concept plans included in this RFEI (See Exhibits 4-12).

The goals and objectives are to create an innovative, attractive and architecturally significant redevelopment project in a way that is not necessarily identical to the conceptual site plans. If determined to be necessary, the Township will consider the inclusion of additional parcels identified within any individual responses, but at minimum any response should include the municipal lots (Block 3100 Lots 28, 29 and 30). Anticipated project components include the following.

### **a. Mixed Use Development Component**

The Township is seeking a qualified Redeveloper to develop the area into a mixed use, predominantly residential project, with ground floor retail, commercial and potential civic uses that includes public parking, while enhancing the vibrant atmosphere in the downtown business district. The following considerations should be taken into account:

- A four (4) story development along Franklin Avenue with a 3-story development at the rear based on the existing grade change that includes retail, commercial and /or potentially civic uses facing Franklin Avenue and a variety of residential dwelling units above;
- A minimum 5,000 sf public park, plaza or open space located on Franklin Avenue;
- A minimum of 1.25 spaces per unit plus a minimum of 50 public parking spaces.
- A design that promotes pedestrian friendly human scale along the public streets; and
- Architecture that complements the historic character of Nutley and is based on the best principles of urban development.
- As part of the financial offer, provide one alternative with and one alternative without the inclusion of Civic or Community space as part of any response. This can be provided as a footnote to the financial offer for the municipal property regardless of the inclusion of private properties.

b. Public Parking Component

It is crucial to this area of the Township that adequate public parking be provided in order to enhance and support the local businesses. As such the respondent should provide a minimum of 50 public parking spaces beyond the number of spaces required for the proposed residential uses. The conceptual site plan contemplates digging out the existing parking in the rear and creating a two-level structure where the upper level is close to the existing grades along the rear property line in order to minimize any impacts to the adjacent residences.

Any respondent that would like the Township to financially participate in the project understand the combined net revenue from the PILOT and parking is materially in excess of the current revenue generated by the surface parking and the taxes that make up the sites proposed within the response.

**6. PROJECT PHASING**

The Township is willing to consider all redevelopment options as it pertains to phasing at this time. Proposals shall plan for any phasing plan to include the continued provision of public parking during construction of the project.

**7. INFORMATIONAL MEETING AND PROJECT SITE INSPECTIONS**

All interested Respondents are encouraged to attend the Township’s informational briefing session to be held on **July 22<sup>nd</sup>, 2021 at 10:00 A.M.** at the site. Respondents will be encouraged to ask questions about the scope of this project and the qualifications required by the Township. Respondents are encouraged to visit the municipal property at any time, however the Township does not control access to the private properties located within the redevelopment area, as such, access may need to be sought independently from individual property owners. Most of these properties, however, can be viewed from public property and roadways.

**8. AVAILABLE BACKGROUND INFORMATION INCLUDED**

All information provided in the conceptual site plans (Exhibits 4 – 12) are conceptual in nature only and do not necessarily represent what can be constructed as it pertains to the site plan, layout, square footage or number of units. The conceptual site plans are intended to only provide ideas for potential respondents. Information for this RFEI can be downloaded from the Township of Nutley web-site [www. https://www.nutleynj.org](https://www.nutleynj.org) and includes the following:

**Exhibit 1-3** – Aerial Maps depicting the overall redevelopment and rehabilitation designation area

**Exhibit 4-6** – Conceptual site plans for Block 3100 Lots 26, 27, 28, 29, 30, 31, & 32 with estimated development summaries.

**Exhibit 7-9** – Conceptual site plans for Block 3100 Lots 26, 27, 28, 29 & 30 with estimated development summaries.

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**Exhibit 13** - Area in Need of Redevelopment Investigation Report

**Exhibit 14** - Area in Need of Rehabilitation Investigation Report

**9. REDEVELOPMENT PLAN AND DESIGN CRITERIA**

Respondents must submit proposals in conformance with the goals and objectives outlined within this RFEI, but may propose alternative solutions. The Township reserves the right to reject any proposal at its sole discretion. The Township is willing to consider alternative design solutions that could be included within a future redevelopment plan based on submissions.

**10. REQUIRED CONTENT AND FORM OF PROPOSAL**

Although the Township encourages creativity in this RFEI process, please limit the format of your response to standard letter sized documents, which should be bound and tabbed for easy review by the evaluation team.

The documentation and other visual materials should be approximately 11" x 17" for presentation to the review committee. Please provide 1 original and 7 printed hard copies with your response as well as a standard USB flash drive with all documents and drawings, in PDF or other electronic format suitable for reproduction of documents. Additional copies may be requested by the Township at the respondent's expense.

Respondents are solely responsible for all costs of preparation of the response to the RFEI. The Township will not return any materials submitted. The following are the submission requirements that shall be followed:

- A. Cover letter: Transmittal letter on your entity's stationery.

- B. Executive Summary: Respondents should synthesize the information contained in the overall submission with particular emphasis on the Respondent's financial condition and its experience with similar projects. The executive summary should be drafted so that it may be easily understood by persons not having a property development, legal or financial background.
- C. Project narrative: In a narrative fashion, described the proposed project including the:
1. Approach and Description: Respondents approach to development and overall project description.
  2. Renderings: Please supplement the project narrative by providing illustrations such as aerial photos, maps, site plans, elevations, drawings and artist renderings that clearly explain the location and appearance of the proposed improvements.
  3. Materials: Description of proposed facilities, types and sizes of buildings, building materials and architectural treatments, ancillary facilities and amenities.
  4. Construction Type: Anticipated construction type, gross and net square footage.
  5. Development Summary: Number of units, unit type breakdown, retail / commercial and civic (if proposed) square footage as well as parking counts. The proposed number of stories and building heights should also be provided.
  6. Parking: Number of parking spaces provided. All submissions shall provide for the provision of at least 50 public parking spaces.
  7. Amenities: Public amenities and open space, if proposed, other than the required 5,000 sf park, plaza or open space.
  8. Why the proposed developer / development will be a unique, interesting and successful place.
- D. Economic Proposal: Each Respondent must describe how its submission offers the highest probability of success and greatest economic return to the Township. Economic proposals should address the following categories:
1. Purchase price for Township properties only regardless of private properties that may be included in the proposal.
  2. Requested terms of a potential PILOT along with an anticipated PILOT payment over the project's lifetime.
  3. Detailed design and construction budget.
  4. Detailed operating budget.
  5. Anticipated equity contribution versus proposed level of debt.

6. Any other financial consideration to be paid to the Township.
- E. Project Schedule: Proposals should include a schedule of key pre-development and construction milestones prepared on a quarterly basis with the anticipated start date, the design and construction of public infrastructure, securing governmental approvals, and commencement and completion of improvements for the project.
- F. Mixed Use Development: The Respondent should include a preliminary fiscal impact analysis, which will provide a preliminary assessment of the anticipated economic, demographic and financial implications related to the proposed project.

The Respondent should address the economic benefits that the Township will receive in the form of property taxes or payments in lieu of taxes if the Respondent is requesting consideration of same.

#### **11. ADMINISTRATIVE AND PROFESSIONAL ESCROW FEES**

Each Respondent's submission shall be accompanied by a non-refundable administrative fee of \$1,000 to defray the expenses of the Township for the preparation and administration of this RFEI. In addition, each Respondent's submission shall be accompanied by a refundable escrow deposit in the sum of \$25,000, which shall be held by the Township until such time as the successful Respondent is designated the Redeveloper, conditionally or otherwise. At that time, the escrow shall be applied to defray the costs of negotiating and administering the agreement(s) and the escrow deposit of the unsuccessful Respondents shall be returned.

#### **12. THE SUBMISSION PROCESS**

All communications concerning the RFEI shall be directed to: The Township of Nutley – Block 3100 – RFEI. Attn: Eleni Pettas, RMC, CMC, Municipal Clerk, 1 Kennedy Drive, Nutley, NJ 07110, (973) 284-4955, [epettas@nutleynj.org](mailto:epettas@nutleynj.org).

Other than as indicated above, entities or organizations interested in submitting a response to the RFEI may not contact any Township employee. Failure of a firm or organization to adhere to the foregoing may result in its disqualification from further participation in the RFEI process.

Responses to this RFEI must be submitted to Township of Nutley, Attn: Eleni Pettas, RMC, CMC, Municipal Clerk on or before **October 1<sup>st</sup>, 2021 at 10:00 A.M.** No copies shall be sent to any other person. Submissions forwarded by facsimile or electronic transmission will not be accepted. The information contained in the submissions will be held in confidence to the extent permitted by law (please mark any material you believe to be confidential proprietary information as such). Any agreement(s) entered into between the Township and the successful Respondent will become a public document upon execution.

**13. RFEI PROCESS AND SCHEDULE**

This process commences upon the issuance of the RFEI, the remaining steps involved in the process and the relevant dates are set forth below. The Township reserves the right to among other things, amend, modify or alter the process or schedule set forth herein upon notice to all selected Respondents. The Township may modify, supplement or amend the provisions of this RFEI by issuing addenda to all selected entities that received the RFEI.

| <b><u>Activity</u></b>                          | <b><u>Date</u></b>                           |
|---|--|
| 1. Issuance of the RFEI                         | July 1 <sup>st</sup> , 2021                  |
| 2. Non-Mandatory Virtual Information Conference | July 22 <sup>nd</sup> , 2021                 |
| 3. Respondent Submissions Due                   | October 1 <sup>st</sup> , 2021<br>10:00 A.M. |
| 4. Short-List Interview(s)                      | October 18 <sup>th</sup> – 29 <sup>th</sup>  |
| 5. Selection and Designation of Redeveloper     | November 2021                                |

Once the Township has selected a Respondent to be designated as the Redeveloper, the Respondent will be notified of its selection. At the same time, the Township and the Redeveloper will commence exclusive negotiations to enter a Redevelopment Agreement, Lease, Purchase and Sale Agreement, Finance Agreement, and/or Parking Agreement as may be necessitated by the Respondent’s submission for the project.

**14. SELECTION PROCESS**

The Township anticipates evaluating all responses pursuant to the process and schedule above. Upon completion of the interviews, the Township will select a Respondent to be the designated Redeveloper who will be formally designated by adoption of a resolution of the Township’s governing body. It is expected that the Township and the Redeveloper will enter into a Redevelopment Agreement within approximately 90 days of the Township’s designation of the Redeveloper.

The Redevelopment Agreement will set forth specific development rights and obligations of the parties. It will also establish the general terms and conditions for the sale and/or lease of the properties required to be acquired to complete the proposed project, which may be memorialized in additional agreements.

All proposals received, whether or not short-listed, will be considered active until a Redevelopment Agreement is executed unless such proposal is withdrawn by the submitting entity, or in the event that this RFEI is cancelled. Each RFEI submission should endeavor to satisfy the information requested in the categories described herein. Respondents whose submissions are not complete in all respects will be afforded an opportunity to supplement their proposal to address missing elements. All information must be clear and responsive to this RFEI.

**15. SELECTION/EVALUATION CRITERIA**

The Township will initially evaluate each submission for completeness and clarity. The Township may seek additional clarification and/or request missing information before undertaking its evaluation. Respondents will have a limited time period in which to provide such clarifications and/or missing information. Proposals which are incomplete at initial submission will not be rejected, but all Respondents are urged to prepare and present proposals which are as complete as possible under the time constraint imposed by the RFEI schedule.

As it conducts its evaluation, the Township will apply criteria that generally measures how each proposal fulfills the goals and objectives set forth in this RFEI. The Township's primary goals in issuing this RFEI will be generally weighted as follows:

- |   |            |
|---|------------|
| <b>(1) Qualifications and Development Experience</b>  | <b>35%</b> |
| <i>This includes experience on projects of similar scale and nature along with the financial capability to timely complete the same.</i>  |            |
| <b>(2) Quality of Conceptual Development Plan</b>   | <b>35%</b> |
| <i>This includes relative adherence to the Township's planning goals and objectives along with the quality and amenities for both the public and the tenants of the project being presented.</i>  |            |
| <b>(3) Terms of the Financial Offer</b>   | <b>20%</b> |
| <i>This includes the presentment of financial terms that are beneficial to the taxpayers of the Township, not just those that may trickle down from the project, but specifically lease, purchase and/or revenue sharing proposals to be paid directly to the Township.</i> |            |
| <b>(4) Project Schedule and Phasing</b>   | <b>10%</b> |
| <i>This includes the presentment of a timely schedule for the financing and completion of the project along with how public parking will be addressed during the construction phase(s).</i>   |            |

Based on the selection criteria, the Township will short-list Respondents according to their overall ranking and interview the selected entities.

**16. IDENTIFICATION**

Provide the full corporate name, contact person, mailing address and e-mail address, state of incorporation, and authorization to do business in New Jersey. If Respondent is a partnership or joint venture, provide all information for each individual company making up the partnership or joint venture, including disclosures of parties who own 10% or

greater equitable or ownership interests in such entity. The form and structure of any proposed partnership or joint venture must be clearly defined.

Only responses from principals will be considered. Individuals in representative, agency, or consultant status may submit responses to this RFEI on behalf of principals if principals are identified and solely responsible for the content and cost of the response. The proposed project architect, engineer, planner, project manager, attorney, marketing team and other relevant professionals should be identified if determined together with a brief description regarding the qualifications of each. If designated, Respondents will need to document that they are an entity legally authorized to conduct business in the State of New Jersey.

## **17. REDEVELOPER QUALIFICATIONS AND EXPERIENCE**

The Township is seeking a Redeveloper with significant experience in urban and infill development, mixed use residential, commercial development with vertical public parking components. The Township will ultimately enter into negotiations with the most qualified Respondent based upon their proposal. The qualified Redeveloper must have adequate financial resources that can be clearly demonstrated.

In response to this RFEI the Respondent must include at a minimum the following information (if joint venture, information on all companies must be included):

- A. A detailed description of your company and the members of your development team. Include resumes of principals of your company and project managers.
- B. Your real estate development history and that of any other firm with significant project responsibility.
- C. The developer information form (signed by the authorized officer).
- D. A listing of a minimum of 3 relevant development projects with detailed information as to the nature, size, scope, cost, date of the project and amount of debt issued and equity raised. Please include photographs of each project.
- E. Your experience in public/private mixed use real estate development projects.
- F. Your experience in managing, designing and building on schedule and within budget parking decks of at least 400 spaces.
- G. Four references including telephone numbers (include at least one financial institution and one parking related reference).
- H. Submit financial statements certified by your entity's chief financial officer, CPA or auditor, specifically:
  - i. The most recent consolidated financial statements including all contingent liabilities; and/or
  - ii. The most recent form 10-K (if applicable).

- I. A description of the entity's equity position, including a description of your relationship with financial institutions are equity partners.
- J. A list of investors in the entity.
- K. Describe how each project component will be financed, including assumptions for the amount of equity committed and debt required, source of project funds and financing, source and strength of payment and performance guarantees, the anticipated preferred return, and payments to the Township. Respondents may determine that it is in their best interest to utilize various types of public and/or public or private financial options, including tax-exempt financing and direct grants, as well as other programs including but not limited to federal, state, county or local grants. If the Respondent does intend to use such financing you should identify them and describe them in detail as part of its proposal.

The Township is firmly committed to providing full and equal business opportunities to all persons regardless of race, color, religion, gender, national origin, age or not job-related disability. In that regard, the Township will affirmatively assure that minority and female owned businesses are afforded equal opportunities for consideration for all purchases and contracts issued in connection with this project.

**20. PAYMENT AND PERFORMANCE GUARANTEE(S)**

Respondents should specify the nature of payment and performance guarantees to the Township. While the selected Redeveloper may be a newly formed single purpose entity, the performance of all obligations under the Redevelopment Agreement must be guaranteed by one or more financially capable party or parties. Such guarantee may, in the reasonable judgment of the Township, require the posting of security, which may be in the form of an unconditional irrevocable letter of credit or in other form acceptable to the Township. The requirement to post security shall depend upon the financial strength of the guarantor, the nature of the completion guarantee provided to the construction lender and third-party rights, if any, afforded the Township under such construction loan guarantee, and other assurances as may be negotiated between the Township, the selected Redeveloper and the guarantor.

**21. ADDITIONAL INFORMATION**

Respondents are invited to provide any additional information they may deem relevant to the Township's consideration of their responses.

**22. ADDITIONAL DUE DILIGENCE**

The short-listed Respondent(s) shall be granted access to any properties under the Township's control for the purpose of completing due diligence of the physical condition, including, but without limitation, geotechnical, environmental and site surveying. Access and the right to test will be granted under one or more rights of entry issued by the Township. Such rights of entry will contain terms and provisions, including, without limitation, insurance coverage and indemnification of the Township. Should any of this

due diligence require significant disruption to the site, bonds may need to be posted to ensure full restoration of the site.

### **23. COMMUNICATIONS PROTOCOL**

All inquiries concerning this RFEI should be made in writing, and transmitted by e-mail, to Eleni Pettas, RMC, CMC, Municipal Clerk, 1 Kennedy Drive, Nutley, NJ 07110, (973) 284-4955, [epettas@nutleynj.org](mailto:epettas@nutleynj.org).

Additional information, and responses to questions applicable to more than the party making the inquiry, will be sent to the designated e-mail representative of each entity that registers for this RFEI. It is, therefore, important that potential Respondents make certain that registered email addresses are correct and remain current.

Unless specifically designated, no employee of the Township is authorized to provide an interpretation of any part of this RFEI or to give information in addition to that which is contained in this RFEI. Interpretations, responses to inquiries and additional information will only be communicated in the manner set forth above. Telephone inquiries will not be accepted.

### **24. COST OF PREPARATION AND PROPRIETARY INFORMATION**

Each RFEI submission and all information required to be submitted pursuant to this RFEI shall be prepared at the sole cost and expense of the Respondent. There shall be no claims whatsoever against the Township, its staff, or its professional consultants, including, but not limited to, engineers, attorneys, planners, architects, and surveyors, for reimbursement for the payment of costs or expenses incurred in the preparation of the RFEI submission or other information related in any way to this RFEI.

If the Respondent chooses to include material of a proprietary nature in the RFEI response, the Township will keep such material confidential to the extent permitted by law. The Respondent must specifically identify each page of its submission that contains such information by properly marking the applicable pages. Preferably, any sections which contain material of a proprietary nature shall be severable or removable from the response to assist the Township in protecting this information. The Respondent also shall include the following notice in the introduction to the relevant response:

["The data on pages \_\_\_, identified by \_\_\_ (symbol) are labeled 'Proprietary Information' contain information that, if disclosed, would cause substantial injury to [Respondent's] competitive position. [Respondent] requests that such data be used only for the evaluation of the response, and understands that disclosure will be limited only to the extent the Township determines it proper or to the extent that the Township deems disclosure necessary according to law."]

The Township will use its best efforts to prevent the unauthorized disclosure of this information and apply the above proprietary standard to marked data. However, the Township, its staff, agents, and professional consultants assume no liability for any loss, damage, or injury that may result from any disclosure or use of marked data or any disclosure of this or other information. Further, the respondent acknowledges that all

such information shall be disclosed to and shared with those consultants and professionals whom the Township has engaged to assist it with this Project.

**25. DISPOSAL OF RFEI SUBMISSION**

Once opened, all RFEI submissions are the property of the Township and will not be returned. At the conclusion of the RFEI process, the Township may dispose of any and all copies of the submissions received in whatever manner it deems appropriate in accordance with law. However, prior to such disposal, the Township will make efforts to prevent the unauthorized disclosure of proprietary information. In no event will the Township assume liability for any loss, damage or injury that may result from any disclosure of any information contained in the RFEI submission.

**26. SOLE DISCRETION, NO LIABILITY**

The Township shall be the sole judge of each Respondent's conformance with the requirements of this RFEI and the merits of the responses made. The Township reserves the right: to amend, modify or withdraw this RFEI; to waive any requirements of this RFEI; to require supplemental statements and information from any respondent to this RFEI; to award a Redevelopment Agreement to entities which have not responded to this RFEI; to accept or reject any or all responses; to negotiate or hold discussions with one or more of the respondents which may result in a designation; to issue a subsequent RFEI to a shortlist of RFEI respondents or a list based on a new competitive basis; to correct deficient responses that do not completely conform with this RFEI; to reject any or all responses and to cancel this RFEI, in whole or in part, for any reason or no reason in the Township's sole discretion. The Township may exercise any such rights in its sole discretion at any time, without notice or liability to any Respondent or other parties for their costs, expenses or other obligations incurred in the preparation of a response or otherwise; and to waive any condition or modify any provision of this RFEI with respect to one or more respondents.

To the extent stated, the information set forth in this RFEI concerning the properties within the redevelopment area, conditions thereupon, financial and legal status, and other matters is believed to be accurate, but is not so warranted, and there should be no meaning attributed to any of the terms hereunder that are not explicitly set forth. The Township assumes no responsibility for errors or omissions. Respondents are advised to verify independently the accuracy of all information and to make their own judgments of the risks involved in development of any proposed project as contemplated in this RFEI.

The Township shall not be obligated to pay any fee, cost or expense for brokerage commissions or finder's fees with respect to the execution of any agreement which results from this RFEI. The Township has made no representations to any prospective Respondents and shall have no liability whatsoever in connection with this RFEI.

**27. GENERAL CONDITIONS**

Respondents to this RFEI bear the responsibility of informing themselves of the requirements of the Township and bear the responsibility of adhering to the requirements of this RFEI. By responding to this RFEI the Respondent acknowledges and

consents to the following conditions relative to the submission, review and consideration of its proposal.

The issuance of this RFEI is not intended, and shall not be construed, to commit the Township to execute any agreement. The issuance of this RFEI is not intended, nor shall be construed to form any joint venture between the Township and any Respondent to this RFEI.

The Township nor any of its officials, servants, employees, agents or consultants shall be liable for any claims or damages resulting from the Township's solicitation or collection of proposals, nor will any Respondent receive reimbursement from those parties for the cost of preparing the proposal or for participating in the process.

A Respondent's failure to submit a proposal that completely addresses the requirements of this RFEI (including submittal of all documents required to be submitted under the terms of this RFEI) at the times and in the manner specified may result in the Township rejecting the proposal in its sole discretion.

All activities related to the preparation of this RFEI and to the performance of the selected Respondent's obligations as a result of selection are subject to compliance with all applicable federal, state and local laws, environmental regulations and requirements, including the provisions of the New Jersey Law Against Discrimination.

The Township may return, unopened, any and all proposals that the Township has not received prior to the deadline for submission and need not consider such proposals.

This RFEI is issued for the benefit of the Township as a means to identify a qualified Redeveloper. The RFEI process is not intended for the benefit of the Respondent and no rights are intended to be granted to Respondent by virtue of this solicitation or by virtue of any submission by any Respondent.

The Township reserves the right to amend or cancel this RFEI at any time prior to execution of the agreements described herein. The Township will not be responsible for the risks and costs that Respondents incur as a result of such an amendment or cancellation.

The Township reserves the right to waive any irregularities in the completion of the forms and papers enclosed in the proposals, to accept or reject any or all proposals and to re-advertise for proposals.

A Respondent may withdraw a proposal prior to the date and time set for the opening of proposals with a written request hand-delivered or delivered by certified U.S. Mail.