



**PRELIMINARY MEMORANDUM OF TERMS AND CONDITIONS  
FOR  
City of Lake Worth Beach Community Redevelopment Agency  
November 18, 2019**

**This Preliminary Memorandum of Terms and Conditions is not a commitment or an offer to lend and does not create any obligation on the part of the Bank. The Bank will not be deemed to extend any commitment to the Borrower unless and until a formal commitment letter is issued. This outline is only a brief description of the principal terms of suggested facilities and is intended for discussion purposes only.**

**Borrower:** City of Lake Worth Beach Community Redevelopment Agency (“**Borrower**”)

**Lender:** PNC Bank, National Association (“**Bank**”)

**Credit Facility:** A non-revolving credit facility of up to \$1,500,000.

**Purpose:** To acquire properties within the boundaries of the City of Lake Worth Beach Community Redevelopment Agency.

**Amortization:** Draw-downs available for a period of up to twelve (12) months after closing (the “**Draw Period**”). Interest only during the Draw Period, payable quarterly. At the end of the Draw Period, the principal drawn shall be converted into an eight (8) year fully-amortizing term loan, payable in eight (8) equal annual installments, on a mortgage style basis, amortized over a period of eight (8) years, with any remaining balance due at maturity. Draw-downs available until the earlier of twelve (12) months after the closing date or when the facility is fully drawn.

In addition to regularly scheduled principal payments, Borrower shall make a mandatory deposit of \$225,000 into a sinking fund at closing which will then be applied to the first scheduled payment of principal and interest on January 23, 2021.

**Maturity:** Nine (9) years) from the closing date.

**Interest Rates:** Draw Period.

Fully fluctuating at the One Year Treasury Rate plus two hundred and fifty (250) basis points (2.50%), fluctuating daily. Indicative rate of 4.03% as of 11/18/19.

Term Loan Period.

A fixed rate to be determined by Bank as of the expiration of the Draw Period as offered by the Bank in its discretion. Indicative rate of 4.01% as of 11/18/19.

Interest will be calculated on the daily outstandings on a 360 day year for the actual number of days elapsed and will be due monthly in arrears

Customary yield protection and prepayment cost recovery provisions will be included in the definitive loan documents.

**Default Rate:** 3% over the effective interest rate.

**Collateral:** The Credit Facilities will be secured by:

- (a) A pledge of the assets of the Borrower consisting of:
  - (i) Increment revenue (as defined in Section 163.340(22), Florida Statutes (the "Pledged TIF Revenues"), deposited in the Issuer's Redevelopment Trust Fund established by Ordinance NO. 2000-33 of the City Commission of the City of Lake Worth, Florida which shall secure repayment of the loan.

The Credit Facilities will be cross-collateralized and cross-defaulted with all other present and future obligations of the Borrower to the Bank.

**Commitment/  
Closing Fee:** 1.0% of the aggregate amount of the Credit Facilities \$15,000. The Commitment Fee shall be non-refundable.

**Expenses:** All expenses incurred by the Bank, including appraisal, environmental, searches, construction consultant, recording of UCC filings and other security interests, and audit and reasonable legal fees (inside and outside), and any other expenses in reference to structuring, documenting, closing, monitoring or enforcing the Credit Facilities, shall be for the account of the Borrower and payable at closing and otherwise on demand.

**Conditions  
Precedent:** Including, but not limited to, the following, with all documents to be satisfactory in form and substance to the Bank:

- (a) No material adverse change in the condition, financial or otherwise, operations, properties, assets or prospects of the Borrower.
- (b) No material threatened or pending litigation or material contingent obligations.
- (c) Execution of loan documentation.
- (d) With respect to each Borrower, (i) a copy of any trust agreement, partnership or operating agreement, if any; (ii) a copy of the certificate of formation filed with the Secretary of State of the jurisdiction in which such entity was formed; and (iii) verification of good standing with respect to such entity in the jurisdiction in which such entity was formed [and in the jurisdiction in which the Property is located].
- (e) A certificate, to be dated as of the Closing Date as to the incumbency of officers, partners, or members, as appropriate, of the Borrower.
- (f) Resolutions of the Borrower evidencing approval of the Credit Facilities and all steps necessary to consummate the Credit Facilities including, without limitation, execution of the Loan Documents.
- (g) Delivery of evidence of legally binding insurance covering such risks as are required by the Bank, naming the Bank as lender loss payee or additional insured, as appropriate.
- (h) Delivery of an executed certificate of beneficial ownership and such other documentation and other information requested in connection with applicable “know your customer” and anti-money laundering rules and regulations, including the USA Patriot Act.
- (i) Evidence that all actions necessary or, in the opinion of the Bank, desirable, to perfect and protect the security interest of the Bank have been taken.
- (j) Delivery of legal opinions required by the Bank relating to the Borrower and the Credit Facilities.

**Reporting  
Covenants:**

- (a) Borrower’s Annual Report within one hundred twenty (120) days of the end of the fiscal year.
- (b) Borrower’s operating budget as soon as available, but not later than October 31<sup>st</sup> of each year.

- (c) Borrower's projections of Pledged TIF Revenues for the applicable fiscal year as soon as available, but not later than October 31<sup>st</sup> of each year.
- (d) City of Lake Worth Beach's Comprehensive Annual Financial report, including the audited financial statement of the Borrower, together with a covenant compliance certificate demonstrating the Borrower's compliance with the debt service coverage ratio covenant.
- (e) Within forty-five (45) days after the Bank's request, such financial and other business information that the Bank may request from time to time concerning the Borrower

**Covenants:**

Affirmative and negative covenants, including the reporting covenants listed above, will be specified by the Bank for inclusion in the Loan Documents. Covenants are expected to include but may not be limited to (a) limitation on sale of assets; (b) limitation on additional indebtedness, liens and leases; (c) prohibition on change in business; (d) prohibition on change of control; (e) prohibition on mergers, division and acquisitions; (f) prohibition against distributions to shareholders; and (g) limitation on loans and advances.

Financial covenants are expected to include but may not be limited to:

- (c) The Borrower will maintain as of the end of each fiscal year a Debt Service Coverage Ratio of at least 1.10 to 1.00.

As used herein:

**"Cash Flow"** means net income minus capital expenditures plus depreciation plus amortization plus other non-cash items minus distributions of the Borrower to its partners.

**"Current Maturities"** means the scheduled payments of principal on all indebtedness for borrowed money having an original term of more than one year (including but not limited to amortization of capitalized lease obligations), as shown on the Borrower's financial statements as of one year prior to the date of determination.

**"Debt Service Coverage Ratio"** means the ratio of: (i) Cash Flow of the Borrower plus interest expense to (ii) the total of Current Maturities of the Borrower plus interest expense.

**Depository:**

The Borrower will establish and maintain, with the Bank, a depository account with a minimum of \$225,000 for the sinking fund payment due.

**Documentation:** Loan Documents in form and substance satisfactory to the Bank must be executed and delivered containing representations, warranties, covenants, indemnities, conditions to lending, events of default and other provisions as are appropriate in the Bank's opinion and specified by the Bank.

**Governing Law:** Submission to **Florida** jurisdiction

**USA PATRIOT  
Act Notice:**

Pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. 107 56), the Bank is required to obtain, verify and record information that identifies the Borrower and, potentially, other loan parties, which information may include, without limitation, the name and address of the Borrower and any such loan parties and other information that will allow the Bank to identify the Borrower and other loan parties in accordance with the USA PATRIOT Act.

**Miscellaneous:** (a) Waiver of jury trial.