

INDEPENDENT CONTRACTOR AGREEMENT
(Clearing and Grubbing SW 7th Ave and SW 4th St Property)

THIS AGREEMENT, dated the ____ day of _____ 2019 (the "Agreement") by and between the Delray Beach Community Redevelopment Agency, a public body, corporate and politic, duly created and operated pursuant to Chapter 163, Florida Statutes, with an address of 20 N. Swinton Avenue, Delray Beach, Florida 33444, hereinafter "CRA", and The BG Group, LLC a Florida Limited Liability company with a business address 15560 Lyons Rd., Delray Beach, FL 33446, hereinafter "CONTRACTOR."

WITNESSETH:

In consideration of the mutual terms and condition, promises, covenants, and payments hereinafter set forth, CRA and CONTRACTOR agree as follows:

SECTION 1 PREAMBLE

1.1 In order to establish the background, context and form of reference for this Agreement and to generally express the objectives, and intentions, of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

1.2 The CRA elects to enter into an Agreement with CONTRACTOR to perform the Scope of Work as more particularly described in Section 2 of this Agreement for the CRA owned properties located at SW 7th Avenue and SW 4th Street, Delray Beach, Florida (the "Property"), as more fully described in Exhibit "A", which is attached hereto and incorporated herein by reference (the "Project").

SECTION 2 SCOPE OF WORK

2.1 The CONTRACTOR shall furnish all of the materials, tools, supplies, equipment and labor to perform the following:

2.1.1 Clearing and grubbing of all the vacant lots highlighted in Exhibit "A".

2.1.2 Remove all root balls or stump grind, if necessary, from the site.

2.1.3 The materials to be removed from the Property include, but are not limited to concrete, wood, metal, plumbing fixtures, electrical fixtures, mechanical fixtures, glass, plastics, insulation materials, carpet, floor tiles, roof materials, interior furniture fixtures, fences, canopies, hedges, trees, landscape, walks, concrete pads, patios, driveways, driveway aprons, and all other materials located inside and outside of the structures;

2.1.4 The Property shall be left rough graded and free of all debris and vegetation.

For purposes of this Agreement, rough grade is identified as plus or minus one-tenth of a foot (0.1');

2.1.5 Obtain all necessary local, state and federal permits required for the removal, transport and disposal of all materials and arrange for any inspections as required by city, county, state and federal laws;

2.1.6 At the completion of the work, the Property is to be left in a clean and safe condition to allow for redevelopment;

2.1.7 Provide all notifications to all local, county, state, and federal agencies, including, but not limited to, the Palm Beach County Health Department;

2.1.8 Keep all records of inspection and dumps, including hazardous materials for proof of safe removal;

2.2 CONTRACTOR will take preventive measures to prevent and control dust and debris from encroaching on adjacent properties and adjacent right-of-way.

2.3 The CONTRACTOR is required to perform all work in accordance with applicable federal, state, county, and city laws and regulations. In addition, the CONTRACTOR is required to perform all work in accordance with generally recognized and safe industry standards for demolition.

2.4 CONTRACTOR hereby represents to CRA, with full knowledge that CRA is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional licenses, training, expertise, experience, and manpower to perform the services to be provided by CONTRACTOR pursuant to the terms of this Agreement.

2.5 CONTRACTOR assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with recognized professional standards of good demolition and engineering practice.

2.6 The CRA shall be responsible for the permit fees or cost associated with the issuance any permits necessary to complete the services required pursuant to this Agreement.

2.7 CONTRACTOR shall contact all utility companies, coordinate, and pay all costs and fees associated with disconnecting the utilities.

2.8 The sidewalks within the public rights-of-way are to remain and appropriate actions need to be implemented to protect it during the demolition process;

SECTION 3 CONTRACT SUM

3.1 The CRA hereby agrees to pay CONTRACTOR for the faithful performance of this Agreement, and for work as directed by CRA the sum of Twenty-Two Thousand Six Hundred and 00/100 Dollars (\$22,600.00) the "Contract Price". The Contract Price is all-

inclusive for the work being performed by CONTRACTOR, and the CRA shall not be responsible for the payment of any additional fees, unless the parties enter into a written amendment to this Agreement which is executed by both parties. The CONTRACTOR's mobilization, reduction in productivity, utilization, removal of debris, associated tipping fees, and restoration of the Property are all included in the Contract Price. Any additional work to be performed by CONTRACTOR shall be agreed to by the parties and authorized pursuant to a written amendment to this Agreement executed by both parties.

3.1.1 Notwithstanding the forgoing, in the event that hazardous waste disposal is required as a result of the work performed by CONTRACTOR, the CONTRACTOR agrees that the CONTRACTOR shall dispose of all such waste, and that the CRA shall pay CONTRACTOR an additional amount not to exceed One Thousand and 00/100 Dollars (**\$1,000.00**) for the disposal of the hazardous waste.

3.2 For payment purposes, the CONTRACTOR will invoice the CRA for the work performed, once the work is completed, as determined by the CRA. CRA may withhold payment until a final determination is made that all work required to be performed pursuant to this Agreement is completed, all required inspections are completed, and that the CRA receives all required certifications and documentation confirming that the work performed pursuant to this Agreement complies with all applicable laws and regulations for the City, County, State and Federal Agencies, and any differences in job performance, damage to adjacent property, or penalties are resolved to the satisfaction of the CRA.

SECTION 4 PROTECTION OF PROPERTY

4.1 At all times during the performance of this Agreement, the CONTRACTOR shall protect the Property and properties adjoining the work sites from all damage whatsoever, including vehicles, driveways, streets, grass, landscape, etc., on account of the work being carried on pursuant to this Agreement. CONTRACTOR will preserve from damage all property along the line of work or which is in the vicinity or is in any way affected by the work, the removal or destruction of which is not called for by the plans and specifications.

4.2 The CONTRACTOR shall erect and maintain all necessary barricades, suitable and sufficient lights if needed, danger signals and signs, and shall take all necessary precautions for the protection of the work and safety of the public. Should it become necessary for CONTRACTOR to close any roads during any period, it shall coordinate such in advance with the CRA and the City of Delray Beach to avoid traffic disruption and interference with the delivery of fire and police services.

4.3 The CRA reserves the right to request a stop work order from the City, directed to the CONTRACTOR, for unsatisfactory performance of any obligations of this Agreement, at any time the CRA determines the CONTRACTOR is not meeting the expectations of this Agreement, or any breaches by CONTRACTOR of its obligation to protect property pursuant to this Agreement.

SECTION 5 CONTRACTOR'S INDEMNIFICATION

5.1 The CONTRACTOR agrees to protect, defend, indemnify, and hold harmless the CRA, its officers, employees, and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges, and other expenses or liabilities of every kind, including court costs, reasonable attorney's fees, and paralegal expenses, at both the trial and appellate levels in connection with or arising directly out of the work agreed to be performed herein, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of CONTRACTOR, its employees, servants, agents, and subcontractors. Without limiting the foregoing, any and all such claims, suits, etc., relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, is included in the indemnity. CONTRACTOR further agrees to investigate, handle, respond to, provide defense for, and defend any such claims, etc., at his sole expense and agrees to bear all other costs and expenses related thereto, even if the claim(s) is groundless, false, or fraudulent. In case of injury to persons, animals, or property, real or personal, by reason of failure to erect or maintain proper and necessary barricades, safeguards, and signals or by reason of any negligence of any CONTRACTOR, or any of the CONTRACTOR'S agents, servants, or employees during the performance of the work pursuant to this Agreement, the CRA may, through its officials, withhold such payments as long as it may deem necessary for the indemnity of the CRA as Owner, provided that the failure to pay the same shall not be construed or considered as a waiver of the indemnity as hereinabove set forth.

5.2 The parties recognize that various provisions of this Agreement, including but not necessarily limited to this Section, provide for indemnification by the CONTRACTOR and that Section 725.06, Florida Statutes, requires a specific consideration be given thereof. The parties therefore agree that the sum of Ten Dollars and 00/100 (\$10.00), receipt of which is hereby acknowledged, is the specific consideration for such indemnities, and the providing of such indemnities is deemed to be part of the specifications with respect to the services to be provided by CONTRACTOR. Furthermore, the parties understand and agree that the covenants and representations relating to this indemnification provision shall survive the term of this Agreement and continue in full force and effect as to the party's responsibility to indemnify.

SECTION 6 INSURANCE

6.1 The CONTRACTOR shall provide and maintain in force at all times during the Agreement with the CRA such insurance, including Workers' Compensation and Employer's Liability Insurance, Comprehensive General Liability Insurance, Automobile Liability Insurance, and Professional Liability Insurance as will assure to the CRA the protection contained in the foregoing indemnification undertaken by the CONTRACTOR, including the following:

6.1.1 Workers' Compensation Statutory limits.

6.1.2 Commercial General Liability Insurance with limits of no less than \$1,000,000.00, including CRA as an additional insured.

6.1.3 Business Auto Liability coverage is to include bodily injury and property damage arising out of operation, maintenance or use of any auto, including owned, non-owned and hired automobiles and employee non-ownership with limits of not less than \$1,000,000.00 per occurrence.

6.2 CONTRACTOR shall ensure that its insurance provides adequate coverage consistent with all of its obligations under of this Agreement.

6.3 A Certificate of Insurance acceptable to the CRA shall be provided listing the above coverage's and providing thirty (30) days prior written notice to the CRA in the case of cancellation or change of insurer. Should CONTRACTOR permit any required coverage to lapse, CRA may, but is not required to, immediately terminate this Agreement. The CRA shall be named as an additional insured on all policies of insurance, with a waiver of subrogation on all.

6.4 CONTRACTOR is advised to require all of its subcontractors to provide the aforementioned coverage as well as any other coverage that the Agreement may consider necessary, and any deficiency in the coverage's or policy limits of any subcontractors will be the sole responsibility of the CONTRACTOR. CONTRACTOR shall provide proof of coverage by its subcontractors upon CRA's request.

SECTION 7 WARRANTY

CONTRACTOR warrants that its services are to be performed within the limits prescribed by the CRA with the usual thoroughness and competence of the demolition trade

SECTION 8 MISCELLANEOUS

8.1 Attorney's Fees: In the event it becomes necessary for either party herein to seek legal means to enforce the terms of the Agreement, the prevailing party shall be entitled to its reasonable attorney fees and court costs and paralegal fees at both the trial and appellate levels, to the extent permitted by law.

8.2 Governing Law: This Agreement shall be governed by and construed in accordance with the Laws of the State of Florida.

8.3 Venue for litigation concerning this Agreement shall be in Palm Beach County, Florida.

8.4 Severability: If any portions of this Agreement shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed and enforced as if such provisions had not been included.

8.5 Certification and Scrutinized Company Requirements: The CRA shall have the option to terminate this agreement/contract if CONTRACTOR:

- 8.5.1. Is found to have submitted a false certification as provided under section 287.135 (5) Florida Statutes;
- 8.5.2 Has been placed on the Scrutinized Companies that Boycott Israel List;
- 8.5.3 Has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- 8.5.4 Has been engaged in business operations in Cuba or Syria.

8.6 Patriot Act Requirements: Each party shall take any actions that may be required to comply with the terms of the USA Patriot Act of 2001, as amended, any regulations promulgated under the foregoing law, Executive Order No. 13224 on Terrorist Financing, any sanctions program administrated by the U.S. Department of Treasury's Office of Foreign Asset Control or Financial Crimes Enforcement Network, or any other laws, regulations, executive orders or government programs designed to combat terrorism or money laundering, if applicable, with respect to the agreement/contract. Each party represents and warrants to the other party that it is not an entity named on the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury, as last updated prior to the date of this agreement/contract.

8.7. Public Records: CONTRACTOR shall comply with the applicable provisions of Chapter 119, Florida Statutes. Specifically, CONTRACTOR shall:

- 8.7.1 Keep and maintain public records required by the CRA to perform the service.
- 8.7.2 Upon request from the CRA's custodian of public records, provide the CRA with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- 8.7.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the CRA.
- 8.7.4 Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the CONTRACTOR or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the CRA upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable

requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the CRA's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

**RENEE JADUSINGH
561-276-8640
JADUSINGHR@MYDELRAYBEACH.COM
20 NORTH SWINTON AVENUE
DELRAY BEACH, FLORIDA 33444**

SECTION 9 TERM; TERMINATION

9.1 CONTRACTOR agrees to obtain all required permits and approvals for the clearing and grubbing no later than forty-five (30) days following execution of the Agreement by the CRA, unless the CRA's Executive Director or designee, provides written authorization for an extension of time to obtain all required permits and approvals for the demolition of the structures. The Project shall be completed no later than forty-five (30) days following the issuance of all required approvals and permits for the demolition of the structures. The term of this Agreement may be extended for an additional period pursuant to written authorization executed by the CRA's Executive Director. Extensions of time shall be granted at the discretion of the CRA's Executive Director, or for the convenience of the CRA.

9.2 It is expressly understood and agreed that the CRA may terminate this Agreement, in total or in part, without cause or penalty, at any time upon written notice delivered to CONTRACTOR. In that event, the CRA's sole obligation to the CONTRACTOR shall be payment for services for work previously authorized and performed. Such payment shall be determined on the basis of the hours or percentage of work performed by the CONTRACTOR up to the time of termination. Upon such termination, the CRA may, without penalty or other obligation to the CONTRACTOR, elect to employ other persons to perform the same or similar services.

SECTION 10 NOTICES

Whenever either party desires to give notice unto the other, it must be given by written notice, sent by certified mail, addressed to the party for whom it is intended at the place last specified or by facsimile transfer with confirmation thereof. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance

with the provisions of this paragraph. For the present, the parties designate the following as the respective place for giving of notice, to-wit:

For CRA: Jeff Costello, Executive Director
Delray Beach Community Redevelopment Agency
20 N. Swinton Avenue
Delray Beach, FL 33444
Telephone Number: (561) 276-8640
Facsimile Number: (561) 276-8558

Copy to: David N. Tolces, Esq.
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Blvd., Suite 200
Fort Lauderdale, FL 33308
Telephone Number: (954) 771-4500
Facsimile Number: (954) 771-4923

For CONTRACTOR: Ivy Fradin
The BG Group, LLC.
15560 Lyons Rd.
Delray Beach, FL 33446
Telephone Number: (561) 998-7997
Facsimile Number: (561) 998-8815

SECTION 11 DEFAULTS

In the event the CONTRACTOR fails to comply with the provisions of this Agreement, the CRA may declare the CONTRACTOR in default and notify it in writing, giving a reasonable time to cure the default, but in no event shall this time period exceed five (5) calendar days unless otherwise agreed to by the parties. In such event, the Agreement or shall only be compensated for any services completed as of the date written notice of default is served.

[SIGNATURE PAGE ON FOLLOWING PAGE.]

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY

ATTEST:

By: _____
Shelly Petrolia, Chair

Jeff Costello, Secretary

I HEREBY CERTIFY THAT I HAVE
APPROVED THIS AGREEMENT
AS TO FORM:

General Counsel

The BG Group, LLC, a Florida Limited
Liability Company

ATTEST:

BY: _____
Title: _____
Date: _____

By: _____
Print Name: _____

(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ and _____ as _____ and Secretary, respectively, of The BG Group, LLC., and acknowledged executed the foregoing Agreement as the proper official of BG Group, LLC, for the use and purposes mentioned in it and affixed the official seal of The BG Group, LLC, and that the instrument is the act and deed of The BG Group, LLC.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this ____ day of _____, 2019

SEAL

NOTARY PUBLIC

My Commission Expires:

Exhibit "A"



DATE: January 20, 2019
CUSTOMER: Delray CRA
TEL: 561.276.8640
EMAIL: leed@mydelraybeach.com
ATTN: DJ Lee

BID #: AS
PROJECT: Clearing and Grubbing SW 7th Lots
ADDRESS: SW 7th and SW 4th
Delray Beach, FL.

SITE VISIT: Yes
DRAWINGS: None
ADDENDUMS: None

Under the terms and conditions of this Proposal by and between The BG Group, LLC (BG Group) and Delray CRA (Customer), BG Group will provide all labor, material and supervision Necessary to complete the demolition and removal work described herein:

Total Proposal Amount: \$22,600.00
(Twenty Two Thousand Six Hundred Dollars and No/100's)

Perform the following: Clearing and Grubbing of the 10 lots on SW7th Ave. and SW 4th St, as marked in purple on attached photo. We will remove root balls, assuming no sidewalks or utilities are in conflict. If they are, we will stump grind instead.

PROJECT NOTES:

- Work to be completed in one mobilization.
- All debris will be hauled off site. Area will be left rough graded.

EXCLUSIONS:

- | | | |
|-------------------------------|------------------------------------|--|
| • Asbestos Survey and Removal | • Imported fill of any kind | • Site & Temp Fencing |
| • Layouts | • Lane Closure/MOT | • Surveys (all types) |
| • Barriers/Barricades | • Night & Weekend | • Temporary Water |
| • Buried Tanks | • Patching/Repairs | • Underground Utilities & irrigation lines |
| • Compaction | • Permits | |
| • Fine Grading | • Piles: beyond 3 feet below grade | |
| • Parking lot and Lighting | • Protection | |
| • Hazardous Material | • Salvage for others | |

2. Work by The BG Group:

- 2.1 The BG Group will verify all utilities that serviced the structures or equipment to be removed have been disconnected prior to the start of any work.
- 2.2 The BG Group will remove, load, haul and legally dispose of all combustible, solid and metallic debris resulting from the above captioned removal work.
- 2.3 Provide water supply (if not excluded above) in sufficient quantity and pressure and in close proximity to the removal site to support all dust control and fire control measures necessary for the completion of the work.

3. Licenses, Notifications, Regulations and Insurance

- 3.1 Prepare and submit any notifications required to complete the work described in this Agreement.
- 3.2 The BG Group will maintain Workers Compensation with a \$1,000,000.00 limit, General Liability Insurance

15560 Lyons Rd., Delray Beach, FL 33446 Cell: 561-441-5469 Fax: 561-998-8815 email: robert@bgdemolition.com

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with a combined per occurrence limit of \$1,000,000.00/\$2,000,000.00 aggregate and an \$6,000,000.00 umbrella, Pollution Liability Insurance and Auto Insurance with a \$1,000,000.00 limit.

4. Work by Customer:

Customer agrees to perform the following in a timely manner so as not to impede the progress of The BG Group's work described herein:

4.1 Authorize The BG Group to utilize any or all of the necessary equipment and/or devices to complete the work in this Agreement. The following items may be used on this job:

- | | |
|--|--------------------------------------|
| o Excavators of multiple sizes with assorted attachments | o Skid Steers (track or rubber tire) |
| o Rubber Tire Loaders | o Lifts (Scissor, Boom, Lulls, etc.) |
| o Track Loaders | o Hydraulic Saws |
| | o Assorted Hand Tools |

5. Contract Conditions:

The Customer and The BG Group agree that:

- 5.1 The BG Group shall occupy the entire work area exclusively upon the commencement of The BG Group's work. The BG Group shall not be responsible for the safety of any person who enters the work area unless such person has been specifically authorized by The BG Group to enter the work area.
- 5.2 The BG Group will schedule work between the hours of 7am and 6pm, Monday through Saturday.
- 5.3 Customer will convey to The BG Group all rights to, title to, and interest in, all building contents and/or salvage materials not listed in this proposal that are currently located within the demolition/dismantling area.

Payment:

Payment for all work completed shall be made to The BG Group, LLC within 10 days of job completion without exception or retention and whether or not Customer has received payment from any other source. Any late payments will accrue interest at a rate of 12% per annum on a monthly basis. Alternative terms may be negotiated prior to commencement.

Acceptance:

This Proposal shall remain an offer for acceptance by Customer for a period of thirty days. The BG Group, at its discretion, may terminate thereafter.

Sincerely,

Robert Cox
Senior Estimator

Accepted By: _____ Date: _____

15560 Lyons Rd., Delray Beach, FL 33446 Cell: 561-441-5469 Fax: 561-998-8815 email: robert@bgdemolition.com

