

**MANAGEMENT AGREEMENT BETWEEN THE
CITY OF DELRAY BEACH AND
DELRAY BEACH PUBLIC LIBRARY ASSOCIATION, INC.**

THIS AGREEMENT, made and entered into at Delray Beach, Florida, on the 28th day of December, 2005, by and between the **CITY OF DELRAY BEACH**, a Florida municipal corporation, hereinafter referred to as the "City" and **DELRAY BEACH PUBLIC LIBRARY ASSOCIATION, INC.**, a Florida not-for-profit corporation, hereinafter referred to as "Library".

WHEREAS, the City has fee simple ownership of the Library property which is to be used for the operation of a public library; and

WHEREAS, the Library was organized under the laws of the State of Florida, as a not-for-profit corporation for a number of purpose of operating a public Library; and

WHEREAS, the City and the Library desire to confirm and clarify the organizational, operational and oversight procedures as to the Library's responsibility for operation of the facility, including, but not limited to the establishment of budgets, the submission of state and federal grants, the solicitation of private grants and donations, the determination and establishment of programs by the Library, the maintenance of the interior improvements by the Library and to clarify the procedures regarding maintenance of the exterior site by the City all as more specifically described in the Lease.

WHEREAS, the Lease shall control any conflicts.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, STIPULATIONS AND AGREEMENTS HEREIN CONTAINED, THE PARTIES AGREE AS FOLLOWS:

1. The above "Whereas" clauses are true and correct and are incorporated herein by reference.

2. **Board of Directors.** The Library shall be governed by the voting members of the Board of Directors. The Board of Directors shall be selected and perform all duties and responsibilities pursuant to the Articles of Incorporation and By-laws of the Library as they now exist or as they may be amended from time to time.

3. **Meeting.** If required by law, all meetings of the Board of Directors shall be duly advertised and open to the public in accordance with the State of Florida open meetings law. A record of all meetings shall be kept and forwarded to the City on a regular basis. The City representative shall be notified one (1) week prior to all meetings.

4. **Subcommittees.** The Board of Directors of the Library shall be empowered to establish such committees as deemed necessary per the Articles of Incorporation and By-laws of the Library as they now exist or as they may be amended from time to time.

5. **Director.** The Library shall have an Executive Director or equivalent (hereinafter called "Director"). The Director shall manage/administer the operation of the facilities. All activities of the Director shall be subject to the review, policies, procedures and approval of the Board of Directors of Library (hereinafter referred to as "Board of Directors").

6. **Personnel and Services.** The Library, through its Board of Directors, shall have sole discretion over the employment of full and part-time staff, including the employment of the Executive Director and all ancillary staff. The Library shall be

responsible for providing all personnel required to carry out its activities, except as may be voluntarily provided by the City. The Library will provide the City with adequate notice of need for City assistance to carry out their responsibilities. The City shall have the right, upon reasonable prior written notice, to schedule meetings or events as space is available at no rental charge to the City. The City will assume set up and clean up responsibilities for City events or meetings.

7. **Contact Person.** The Library shall designate the Director and a board member to serve as a liaison between the Library and the City. The City shall designate an Assistant City Manager, or other such designee of the City Manager as the City's contact person. The City Manager shall notify the Library in writing, of such appointment. City's designee shall have the option of attending the meeting and shall receive written notice of meetings of the Board of Directors.

8. **Management.** The Board of Directors, either itself or through various committees, shall be responsible for:

(a) Financial affairs which shall include, but not be limited to, proposed budgets, expenses, membership income, donations, grants, and subsidies and City financial support.

(b) Property Management which shall include, but not be limited to, matters relating to upkeep, repairs, capital improvements, security, interior maintenance, alterations, restoration and renovation or any other such changes to the buildings. Property Management matters constituting major repairs, capital improvements, restorations and renovations must have prior approval of the City.

(c) Programming matters, including exhibits as well as coordinating and scheduling the use of the facilities by other artistic and cultural organizations, community or civic groups and governmental bodies, etc. The Library shall present to the City, the Library's budget for each fiscal year.

(d) Fund raising from both public and private sources.

(e) Submission of applications of grants.

(f) Management, maintenance, and operation of the property to the extent required under the lease with the City.

(g) Employment of all personnel.

9. **Program Execution.** The projected program uses approved by the Board of Directors shall be executed by the Director or by the staff of Library under the supervision of the Director.

10. **Project Administration.**

(a) The Delray Beach Public Library Association, Inc. shall be the Project Administrator for any construction or renovation that may take place on the property:

(1) Act as owner between all consultants, architects, engineers, and contractors for the project;

(2) Develop and manage all fund-raising campaigns for the capital campaign and annual sustaining funds;

(3) Develop and manage all grant proposals (City, County, State, Corporate and Foundations) with annual reporting to the City as may be required by grants;

(4) Develop all design documents in conjunction with the architects of record;

(5) Develop site landscaping design with the landscape architect of record,

(6) Have contractual authority to use outside independent consultants for design development, if needed;

(b) **Library** shall abide by all applicable Florida, state and municipal laws, ordinances, rules and regulations.

11. **Grounds and Building Operations.** **Library** shall perform its portion of grounds and building operations to the extent set forth in the lease. Pursuant to the Lease, **Library** shall be responsible for interior maintenance, repair and replacement and all other aspects of property management and maintenance except that the **City** shall be responsible for the exterior walls, roofs, parking lot, exterior landscaping, irrigation, lighting (including fountain), walkways, heating and air conditioning equipment (climate control), and exterior signage. It is explicitly agreed that among other things, that the duty of **Library** shall include furnishing all necessary janitorial and cleaning services, pest control services, care and maintenance of the structures located on the property, any interior renovation or redecoration not involving major structural changes, and that **Library** shall pay all charges for telephone, water, sewer, gas, electricity and any and all other such utilities as may be used in connection with the property, including utilities necessary for the operation of exterior lighting. In addition, **Library**, pursuant to the Lease, shall pay any ad valorem taxes imposed upon the property and improvements located thereon during the term of the Lease. **Library** shall pay any

taxes for personal property improvements owned by the Library. The City's maintenance responsibility shall be for the maintenance and upkeep of the exterior of the buildings, including the roof, the grounds, irrigation system, grounds walkways, air conditioning and heating systems, and all exterior lighting (except as set forth above) and signs. Library shall be responsible for all interior maintenance, including janitorial service and annual termite protection of the building.

12. **Budget.** The Director, in consultation with the Board of Directors and in any established financial committee, shall be responsible for recommending a proposed budget to the Board of Directors which will set forth, in a detailed form, all anticipated income and expenses.

(a) The Director shall be responsible for the administration of the budget subject to oversight by the appropriate committees.

(b) A copy of the approved annual budget (both capital and operating) shall be submitted to the City by May 1st of each year. The budget shall delineate sources of revenues and expense items and shall show prior year actual expenses and revenues.

(c) The Library shall provide to the City an Annual Financial Report audited by a certified public accountant with an opinion based upon the audit. This audited report shall be furnished each year within one hundred and eighty (180) days of the close of Library's fiscal year. Library may request that the City Commission waive the requirement to provide a certified audit. The City Commission may approve or deny the requested waiver.

(d) The **Library** shall make all requests for funding of money from the **City**, or for a contribution of services or materials from the **City** within the **City's** budget deadlines, except for unforeseen and unanticipated matters.

(e) There shall be no commitment as to **City** funds or assistance until the annual budget of the **City** has been approved by the City Commission of the City of Delray Beach.

(f) **Library** shall have prime responsibility for obtaining funds for the budget from members, fund raising events, private grants, private donations and local and state and federal government sources. The **City** agrees to cooperate and reasonably assist the **Library** in obtaining funds in the form of grants and subsidies by reasonably prompt execution of documents required to obtain grants and subsidies.

(g) **Library** shall provide the **City** quarterly accounting of the revenues and disbursements of any and all funds including grant funds, received or disbursed by **Library**, if **Library** is required by grants to provide such accounting.

(h) In addition to the certified audit requirements above, **Library** shall provide to the City of Delray Beach, an annual compliance audit of any and all grant funds received expressly for the **Library**.

(i) **Library** shall make available to the **City** copies of all Grant related documentation, to include, but not be limited to: applications, approvals, agreements, audits and related correspondence.

13. **Financial Provisions.**

(a) **Fiscal year.** The **Library** shall establish a fiscal year which coincides with its by-laws and articles of incorporation.

(b) **General Financial Provision.**

(1) The **Library** shall have the authority to establish necessary banking accounts in its own name and to make cash disbursements.

(c) The **City** shall, at all times, have the right to audit all records of the **Library**. The **Library** will comply with the same records retention regulations as prescribed by the State of Florida.

14. **Admissions and Charges.** The Board of Directors shall be empowered to establish and collect admission prices and charges.

15. **Term of Agreement.** The term of this Agreement shall be until such time as the lease shall terminate. However, this Management Agreement shall be reviewed annually by the parties hereto.

16. **Modification.** No amendment or modification to this Agreement shall be effective unless in writing and signed by each of the parties hereto.

17. **Conflicts.** To the extent that there may be any express conflicts with the terms and conditions of the Lease Agreement, the terms and conditions of the Management Agreement shall prevail.

18. **Liability.** No contract executed by the **Library** for any obligation incurred by the **Library** shall be binding upon the **City**, unless specifically approved by the City Commission of the City of Delray Beach. Whenever **City** funds appropriated to **Library** are to be expended, the Board of Directors shall comply with formal bid requirements, if required by law or rule.

19. **Encumbrances.** Library shall not be authorized to mortgage, or otherwise impair or encumber the title to the property as such is described in the Lease Agreement.

20. **Assignment.** This Agreement may not be assigned without the written consent of the parties hereto.

21. **Laws, Rules and Ordinances.** Library shall be governed and follow all applicable Laws, Rules and Regulations.

ATTEST:

Chanelle D. Nubari
City Clerk

CITY OF DELRAY BEACH, FLORIDA

By: Jeff Perlman
Jeff Perlman, Mayor

Approved as to Form:

Susan A. Ruliy
City Attorney

DELRAY BEACH PUBLIC LIBRARY ASSOCIATION, INC.

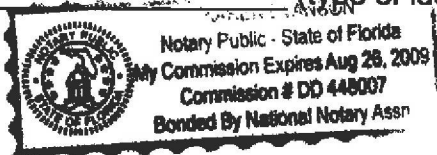
Norman Shapiro
Print Name: Norman Shapiro

By: John J. Callahan III
Print Name: John J. Callahan III
Title: Library Director

Veronica F. DiSilvestro
Print Name: VERONICA F. DiSILVESTRO

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 28th day of December, 2005 by John J. Callahan III (name of officer or agent, title of officer or agent) of Delray Beach Public Library (name of corporation acknowledging), a Florida (state or place of incorporation) corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ (type of identification) as identification.



Karen Hanson
Signature of Notary Public - Florida

AMENDMENT NO. 1 TO THE MANAGEMENT AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND THE DELRAY PUBLIC LIBRARY ASSOCIATION, INC.

THIS AMENDMENT NO.1 to the Management Agreement between the City of Delray Beach and the Delray Beach Public Library Association, Inc. (the "Management Agreement") is made this 21 day of APRIL, 2023 by and between the **CITY OF DELRAY BEACH**, a Florida Municipal Corporation (hereinafter referred to as the "**City**"), and the **DELRAY BEACH PUBLIC LIBRARY ASSOCIATION, INC.**, a Florida not-for-profit corporation, (hereinafter referred to as the "**Library**").

WITNESSETH:

WHEREAS, the City Commission of the City of Delray Beach, recognizes the importance of providing a public library and has maintained an ongoing partnership with the Library to provide public library services; and

WHEREAS, on December 28, 2005, the City and the Library entered into a Management Agreement to confirm and clarify the organizational, operational, and oversight procedures related to the Library's operation of the facility located at 100 West Atlantic Avenue, Delray Beach, FL; and

WHEREAS, the exterior signage of the Library is in need of repair; and

WHEREAS, pursuant to Paragraph 11 of the Management Agreement, the City is responsible for "the exterior walls, roofs, parking lot, exterior landscaping, irrigation, lighting (including fountain), walkways, heating and air conditioning equipment (climate control) and exterior signage; and

WHEREAS, despite it being the City's responsibility to repair the exterior signage, the Library desires to make said repairs at no cost to the City; and

WHEREAS, the parties mutually desire to authorize these repairs; and

WHEREAS, City finds that this Management Agreement serves a municipal and public purpose, is consistent with the City's Comprehensive Plan and Code of Ordinances, and conforms to the requirements of Florida law.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereby agree as follows:

1. The recitations set forth above are true and correct and incorporated herein by reference.

2. The Library, at its sole cost and expense, is authorized to repair any existing damage to the exterior signage at no cost to the City. All repairs shall utilize materials and equipment which are at least equal in quality and usefulness to those originally used in constructing the exterior signage.

3. Nothing herein shall be construed as an ongoing obligation of the Library to make future repairs to the exterior signage or to be responsible for any aspects of property management and maintenance as referenced in Paragraph 11 of the Management Agreement that have been designated as the City's responsibility.

4. All other terms and conditions of the Management Agreement not expressly modified by this Amendment No. 1 remain in full force and effect.

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IN WITNESS THEREOF, the Parties have caused this Amendment No. 1 to be executed as of the date first set forth above.

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to Form and Legal Sufficiency:

Lynn Gelin, City Attorney

DELRAY BEACH PUBLIC LIBRARY ASSOCIATION, INC.

By: _____
[Signature]

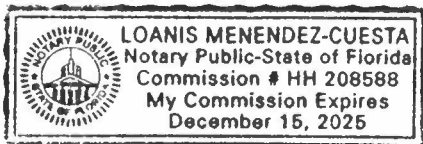
Print Name: MYKAL BANTA

Title: EX-DIRECTOR

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 21 day of April, 2023, by MYKAL BANTA (name of person), as Ex-Director (type of authority) for Delray Beach Public Library (name of party on behalf of whom instrument was executed).

Personally known OR Produced Identification _____
Type of Identification Produced _____



[Signature]

Notary Public – State of Florida