

## **AGREEMENT**

**THIS AGREEMENT** (“Agreement”) is made by and between the City of Delray Beach, a Florida municipal corporation (the “City”) whose address is 100 NW 1<sup>st</sup> Avenue, Delray Beach, FL 33444 and EnviroDesign Associates Inc., a Florida profit corporation (the “Contractor”), whose address is 1855 Dr. Andres Way, #1, Delray Beach, FL 33445 is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**WHEREAS**, the City requires professional environmental services; and

**WHEREAS**, on January 13, 2025, a Phase II Environmental Site Assessment (ESA) was completed by the Contractor at the maintenance facility of the Delray Beach Municipal Golf Club; and

**WHEREAS**, pursuant to Florida Administrative Code Rule 62-780, the City was required to submit the limited Phase II ESA to the State of Florida Department of Environmental Protection (FDEP); and

**WHEREAS**, Chapter 62-780.790, F.A.C., establishes a process and time schedule for assessing and remediating contaminated sites; and

**WHEREAS**, the responsible party is required to initiate a site assessment within 60 days after a discharge is discovered and to submit a Site Assessment Report to FDEP within 270 days of discharge or discovery of the contamination; and

**WHEREAS**, on March 10, 2025, FDEP issued a notification of requirements regarding Chapter 62-780 to the City; and

**WHEREAS**, it is in the best interest of the City to waive the full open and competitive acquisition process to receive professional environmental services for the maintenance facility at the Delray Beach Municipal Golf Club by the same contractor that performed the prior testing and preliminary report and has the most knowledge of the site and the work that needs to be performed; and

**WHEREAS**, the City desires to procure these services from the Contractor in accordance with the City’s Bid Waiver policy subject to the terms and conditions of this Agreement, the City’s Purchasing ordinances, and Florida Law.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein and other good and valuable consideration of which the parties hereto acknowledge, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. The Contractor shall provide professional environmental services for a site assessment report pursuant to Chapter 62-780 F.A.C. for the maintenance facility at the Delray

Beach Municipal Golf Club, in accordance with and pursuant to the Contractor's proposal, attached hereto and incorporated herein as Exhibit "A", and the terms and conditions of this Agreement.

3. The term of this Agreement shall remain in effect for a term of three (3) years and may be renewed for two (2) additional one-year period(s), unless terminated earlier in accordance with terms set forth.

4. The City, at its sole discretion reserves the right to terminate this Agreement with or without cause immediately upon providing written notice to Contractor. Upon receipt of such notice, the Contractor shall not incur any additional costs under the Agreement. The City shall be liable only for the reasonable costs incurred by the Contractor prior to the date of the notice of termination. The City shall be the sole judge of "reasonable costs."

5. Whenever either Party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following:

For CITY:

City of Delray Beach  
100 N.W. 1st Avenue  
Delray Beach, Florida 33444  
Attn: City Manager

With a copy to:

City of Delray Beach  
200 N.W. 1st Avenue  
Delray Beach, Florida 33444  
Attn: City Attorney

For CONTRACTOR:

EnviroDesign Associates Inc.  
1855 Dr. Andres Way, #1  
Delray Beach, Florida 33445  
Attn: Scot E. Wehmeyer, PG, MBA Senior Project Manager

6. Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party.

7. This Agreement shall be construed in accordance with the City of Delray Beach's Code of Ordinances and the laws of the State of Florida. Any dispute relating to this Agreement shall only be filed in a court of competent jurisdiction in Palm Beach County, Florida, and each of the parties to this Agreement submits itself to the jurisdiction of such court. It is hereby understood and agreed that in the event any lawsuit in the judicial system, federal or state, is brought to enforce compliance with this contract or interpret same, or if any administrative proceeding is brought for the same purposes, each party shall pay their own attorney's fees and costs, including appellate fees and costs.

**8. 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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1<sup>ST</sup> AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT [CITYCLERK@MYDELRAYBEACH.COM](mailto:CITYCLERK@MYDELRAYBEACH.COM).**

The Contractor shall comply with public records laws, specifically to:

- i. Keep and maintain public records required by the City to perform the service.
- ii. Upon request from the City's custodian of public records, provide the City 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 Florida Statute or as otherwise provided by law.
- iii. 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 Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the City.
- iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, 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 Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

- v. If the Contractor does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this Agreement in accordance with state law.

9. Contractor is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and may demand and obtain records and testimony from Contractor and its subcontractors and lower tier subcontractors. Contractor understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Contractor or its subcontractors and lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement justifying its termination.

10. The continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.

11. Pursuant to Florida Statute §787.06(13), Contractor has provided to the City an affidavit executed by an officer or representative of the nongovernmental entity under penalty of perjury attesting that Contractor does not use coercion for labor or services as defined in the statute.

12. By entering into this Agreement, Contractor acknowledges its obligation to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." Contractor affirms and represents it is registered with the E-Verify system, utilizing same, and will continue to utilize same as required by law. Compliance with this section includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply with this section will result in the termination of this Agreement, or if your subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If terminated for a violation of the statute by Contractor, the Contractor may be prohibited from conducting future business with the City or awarded a solicitation or contract for a period of 1 year after the date of termination. All costs incurred to initiate and sustain the aforementioned programs shall be the responsibility of the Contractor.

13. The Contractor shall indemnify and hold harmless the City and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the City or its officer, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of the agreement by the Contractor or its employees, agents, servants, partners, principals, or subcontractors. The Contractor shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the City, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which

may be incurred thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the City or its officers, employees, agents, and instrumentalities as herein provided the obligations of this section shall survive the term of this Agreement.

14. Pursuant to Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. By execution of this Agreement, Contractor represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes.

15. Pursuant to Section 287.135, Contractor is ineligible to enter into, or renew, this Agreement if Contractor is on the Scrutinized Companies that Boycott Israel List (as identified in Section 215.4725, Florida Statutes), or is engaged in a boycott of Israel.

- a. By entering into this Agreement, Contractor certifies that Contractor is not on the Scrutinized Companies that Boycott Israel List, and that Contractor is not engaged in a boycott of Israel.
- b. Contractor shall notify the City if, at any time during the term of this Agreement, Contractor is placed on the Scrutinized Companies that Boycott Israel List, or that Contractor is engaged in a boycott of Israel. Such notification shall be in writing and provided by Contractor to the City within ten (10) days of the date of such occurrence.
- c. In the event the City determines, using credible information available to the public, that Contractor has submitted a false certification or Contractor is found to have been placed on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel, the City may, in its sole discretion, terminate this Agreement and seek a civil penalty, and other damages and relief, against Contractor, pursuant to Section 287.135, Florida Statutes. In addition, the City may pursue any and all other legal remedies against Contractor.
- d. Contractor shall not seek damages, fees, or costs against the City in the event the City terminates the Agreement pursuant to this provision.

16. By its execution of this Agreement, Contractor acknowledges that it has been informed by City of and is in compliance with the terms of Section 287.133(2)(a) of the Florida Statutes which read as follows:

"A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list."

17. The Contractor and its services under this Agreement must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations. The Contractor agrees to provide to the City all necessary certifications required by any federal, state, and local laws, ordinances, codes, rules and regulations. The Contractor's obligations under this Section shall survive termination, cancellation or expiration of this Agreement.

18. Pursuant to Fla. Stat. §286.101(3), where the amount of the Agreement is \$100,000.00 or more, Contractor shall disclose any current or prior interest of, any contract with, or any grant or gift received from a country of foreign concern with a value of \$50,000 or more that was received or in force during the previous five (5) years. Definitions, disclosure requirements and exceptions are found in Fla. Stat. §268.101. Contractor represents and warrants it has complied with Fla. Stat. §286.101, it has properly disclosed such interests, contracts, grants or gifts to the City before execution of this Agreement, and it will remain in compliance with Fla. Stat. §286.101 for the duration of this Agreement.

**IN WITNESS WHEREOF**, the City and Contractor executed this contract as of the day and year first above written.

ATTEST:

**CITY OF DELRAY BEACH**

\_\_\_\_\_  
Alexis Givings, City Clerk

By: \_\_\_\_\_  
Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

**ENVIRODESIGN ASSOCIATES INC.**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ (name of person), as \_\_\_\_\_ (type of authority) for \_\_\_\_\_ (name of party on behalf of whom instrument was executed).

Personally known \_\_\_\_ OR Produced Identification \_\_\_\_  
Type of Identification Produced \_\_\_\_\_

\_\_\_\_\_  
Notary Public – State of \_\_\_\_\_